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Canada. Life Insurance, Royal Commission

REPORT

OF THE

ROYAL COMMISSION

ON

[Life]

INSURANCE

MINUTES OF EVIDENCE

VOLUME IV.

PRINTED BY ORDER OF PARLIAMENT



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OTTAWA

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EXCELLENT MAJESTY

1907

SESSIONAL PAPER No. 66

75th day, September 27, 1906.

I do not think there is anything in the Act that we are bound to put that up.

Q.—I thought there was a provision, at the end of section 7 (of Exhibit 514) "Provided that the Treasury Board may require a deposit not exceeding \$10,000 to be made from said fund so soon as the required amount is available for the purpose?" A.—Yes, I overlooked that.

Q.—You have taken over members of other organizations, have you not? A.—Yes.

Q.—In the case of what organization or organizations? A.—The Maccabees.

Q.—Any other? A.—That is all.

Q.—You took over the Maccabees, and then I suppose when your society was formed with a Canadian charter you made some provision for taking over all the members of the former Woodmen of the World in Canada? A.—Yes, we took over about 500.

Q.—You took them without any medical examination? A.—Yes.

Q.—Had they been medically examined under the rules of the parent society? A.—Yes.

Q.—And your Association just adopted that examination? A.—Just adopted that examination, that is only the first lot.

Q.—That would be when you first made the proposition? A.—Yes.

Q.—After that time, if any of the old members came to join they would have to submit to examination? A.—Yes, they would have to be examined.

Q.—Was there any payment made in connection with getting any of these old members to any person? A.—Any person in particular, no, I think not.

Q.—No remuneration to any person to cover the service in getting in these members? A.—No.

Q.—Nothing to yourself? A.—No.

Q.—Were you paid anything in connection with the organization of the Woodmen of the World? A.—Not a cent.

Q.—No money paid to you or any person else that you know? A.—No sir, nothing.

Q.—Does this circular show the conditions on which you took over the Maccabees? A.—Yes.

Q.—That would be a copy of a document sent out? A.—No, that is a dispensation.

Q.—What do you mean by that? A.—That is an order signed by the

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Head Consul Commander, and approved of by the Executive Council.

Q.—For what purpose? A.—For the purpose of taking the Maccabees over.

Q.—Without any medical examinations? A.—Yes, otherwise the by-laws would have had to have been complied with.

Q.—Under what by-laws had the Executive Council power to give dispensation, any particular one? A.—Yes, By-law 27.

Q.—(Reads by-law 27.) That seems to be pretty wide? A.—Pretty wide.

Q.—Is it acted on in any cases than generally taking any of the members of another Order like this? A.—It is very little acted on.

Q.—Does he give dispensation to certain individuals who want to join? A.—No.

Q.—So that they need not pass a medical examination? A.—No, never given any outside of that body of men.

Q.—This provides. (Reads dispensation, which was filed as Exhibit 518). That means that on paying the \$11.00 in instalments these old members of the Maccabees could be admitted to your Order at the age at which they joined the Maccabees and at your rates? A.—Yes.

Q.—Why was that circular issued at that time? A.—There was no circular issued.

Q.—Why was that offer made at that time? A.—Because some of the Maccabees felt dissatisfied and approached us.

Q.—Dissatisfied on account of what? A.—I think it was on account of the raising of their rates.

Q.—The Maccabees had come to the conclusion at that time it was necessary or proper or prudent that they should increase their rates? A.—Yes, the Order of Maccabees.

Q.—And that would induce many to become dissatisfied? A.—Yes, I believe it did.

Q.—And your proposition was made for the purpose of getting these persons into your society? A.—Yes, if they wanted to come.

Q.—How many members of the Maccabees did you get at that time? A.—I think about 400.

Q.—Do you know what their average age was? A.—No, I do not. I think it was lower than our average age.

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Q.—It did not tend to increase your average age at any rate? A.—No, it was lower; our average age was 39.

Q.—Under this provision one might expect you would be apt to get the older members of the Maccabees rather than the younger members? A.—We did not take them individually; they had to join by camps.

Q.—By groups? A.—Yes.

Q.—I think the provision was that eighty per cent. of any camp must come over or you would not be open to take any? A.—Yes.

Q.—Then do you know how many lodges you got from the Maccabees? A.—I think about nine or ten.

Q.—What use was made of the \$11.00 per member paid by these men? A.—That was turned into the insurance fund.

Q.—Was it credited to the insurance fund? A.—Yes.

Q.—Not to the expense account? A.—Not a cent.

Q.—Attached to the dispensation is a letter from Mr. Fitzgerald to Mr. Haskitt. (Reads.) Were your rates about the same as the old rates of the Maccabees at that time? A.—I think our rates were higher.

Q.—Than the old rates? A.—Yes.

Q.—But not as high as the Maccabees were raising theirs? A.—No.

Q.—You also agreed to give them the sick and funeral benefits, I see? A.—Yes.

Q.—You made a special rule as to the members of your Society going to South Africa at the time of the war? A.—Yes.

Q.—And you called upon all members to pay an additional assessment on that account? A.—Yes.

Q.—Some refused to pay it? A.—Very few.

Q.—What did you do in their cases? A.—Suspended them.

Q.—That is you treated that as a valid special assessment made by the Order? A.—Yes.

Q.—Not assessment to meet a particular death loss? A.—No, just made in the regular way.

Q.—Under what by-law would you be acting then? A.—I think that was a resolution of Head Camp. I do not think we acted under any particular by-law.

Q.—The whole Order made that resolution? A.—Yes.

Q.—Did the Canadian institution pay anything to the Sovereign Camp for the business that it took over? A.—No.

Q.—Is there not a sum of \$50 a year being paid in that connection? A.—No.

Q.—In 1898 I think the Sovereign Camp levied five cents annual per capita tax, did it not? A.—Yes; we never paid it.

Q.—Was there some disagreement between your body and the Sovereign Camp? A.—No, there was no disagreement, and I think we thought it would not be a legal payment.

Q.—That you had no right to pay the money out of the funds of the Society? A.—No right to pay it.

Q.—At that meeting of the Head Camp apparently it was resolved that re-imbursement should be made— A. For the expenses of organization.

Q.—Yes, for the expenses of organization. February 21st, 1900, the delegates reported that a tax of \$50 per annum was proposed in lieu of re-imbursement of the per capita tax—was that agreed to? A.—Yes, but it never was paid.

Q.—Why? A.—We thought it would not be a legal payment.

Q.—Has there been any discussion of it since? A.—Yes.

Q.—June 21st, 1899, the Executive Committee—that is some six years after the organization of the Canadian Society—the executive committee confirmed the adjustment at \$50 per year. That seems to be done with a good deal of deliberation, but you say no money has been paid? A.—Never been paid.

Q.—Has it been decided not to pay it? A.—No, the American officials told us if we were in doubt about it never mind, it did not amount to very much, and we just let it stand in that way.

Q.—Do you permit the member to name any person he chooses as the beneficiary? A.—Yes.

Q.—Did you always do that? A.—Yes.

Q.—Do you allow members to change the beneficiary? A.—Yes.

Q.—But you do not supply him with any forms for that purpose? A.—Well, we have forms in the office that we use for that purpose, that we send out to them if they want them.

Q.—I notice D. Gordon keeping up Jones' assessments not permitted—was that something the Order would not permit, for one man to pay the dues of another? A.—We thought Jones was out of the country or somewhere and could not be found, and Gordon was not the beneficiary.

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Q.—And you said he must not pay the dues, and then I suppose the policy lapsed? A.—Yes. We did not think he had any right to keep the policy up; he was neither beneficiary nor a relative.

Q.—You told me I think this morning that you could show me how the expense account stood from time to time, will you show me that now? A.—Yes, page 14 of the ledger.

Q.—How does this account stand now, Mr. Fitzgerald? A.—How does it stand at the end of the year?

Q.—Yes? A.—There was a balance of \$91.13.

Q.—On hand? A.—Yes.

Q.—You say that is in the cash A.—Yes.

Q.—Does that agree with this account in the ledger? A.—It does not show that balance here.

Q.—What makes the difference between the two accounts? A.—I do not know.

Q.—Although the account in the ledger account—\$3,860.25? A.—But that is not right—\$95.13.

Q.—\$95.13 is right? A.—Yes.

Q.—Although the account in the ledger shows it \$3,860.25? A.—That does not show the balance.

Q.—In making up that balance you owe the bank you say \$4,000? A.—We owed the bank more than that at the end of the—

Q.—How much? A.—We owed the bank \$9,542. It is shown here. (In the ledger.)

Q.—Was that on account of expense? A.—Yes.

Q.—So that there would be a shortage of \$9,000? A.—Against the expense account.

Q.—Now, does that show your bank loans from 1898? A.—Yes.

Q.—Down to date? A.—Yes.

Q.—That does not contain a very clear opening entry, does it? A.—I do not know.

Q.—It commences 1898, January, without any day of the month, T.W. O., and nothing to indicate anything further about the transaction; 1,300—450? A.—I think it was intended to commence in 1899.

Q.—Tell me what your indebtedness has been from time to time? A.—Well, it shows it each year.

Q.—At the end of 1893 what was the liability? A.—\$4,575.

Q.—At the end of 1900 the balance was \$4,250? A.—Yes.

Q.—At the end of 1901, \$4,575? A.—Yes.

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Q.—At the end of 1902, \$6,400? A.—Yes.

Q.—At the end of 1900? A.—\$5,925.

Q.—At the end of 1904, \$11,895.46? A.—Yes.

Q.—At the end of 1905, \$9,542.60? A.—Yes.

Q.—What caused the jump from the end of 1903 to the end of 1904 of about \$6,000? A.—Well, in those two years there was an extension of the Order tax 50 cents put on each member, and next year we were that much short—about \$4,000 clear it amounted to—and that was that much loss.

Q.—That is, the tax was taken off? A.—Yes, it was only made for two years.

Q.—What years? 1902 and 1903? A.—Yes.

Q.—For those two years you taxed each man, how much? A.—50 cents per year.

Q.—And that was a fund for expense purposes in connection with the organization? A.—Yes.

Q.—And you stopped paying it in? A.—Yes.

Q.—Although the account at the end of 1903 was still some \$5,925 practically overdrawn? A.—Yes, overdrawn.

Q.—Why was that done? A.—Why was that overdrawn?

Q.—No, why did you cut off your payments in respect of expense when your expense account was in that condition? A.—Well, it was thought the Expense Account would right itself in time without the extra taxation.

Q.—You did not expect it to become lessened in 1904, because it was very much increased in that year? A.—Well, that was the year the 50 cents was not put on.

Q.—Did you take off the 50 cents per member each year, at the same time you passed the resolution for the Investigation Fund, or about the same time? A.—The Investigation Fund was passed in 1902.

Q.—At the same time did you decide then to drop this payment of 50 cents per member? A.—No; they were both passed that year—both those funds.

Q.—You were at that time trying to get in new members? A.—Yes.

Q.—And making a strenuous effort? A.—Yes.

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Q.—Do you know how many times you have changed the rates of your Order? A.—Three times.

Q.—In what years? A.—In 1903, the first change. That was at the organization of the Order. We put on a new rate although we took in the original 500 at the rate they were then paying to the American Order, and the first change we made was at the meeting in 1903.

Q.—Your rates that you started with as a Canadian Society were put on a higher basis, were they, than the old rates? A.—Yes.

Q.—What rates did the members of the old Order pay when they joined yours? Did you continue them on the old rates? A.—We continued them on the old rates.

Q.—So that all that were in the old Order continued to pay their old rates? •

Q.—And have paid their old rates until now? A.—Until now.

Q.—They have never been raised? A.—No.

Q.—These rates, then, I suppose, would be the lowest rates that any person paid? A.—The lowest.

Q.—In 1893 you increased them, and probably the better way would be to put in— A.—I put in a printed slip with those rates on.

Q.—You did put it in? A.—Yes.

Q.—That is the 1903 rate? A.—Yes, all the rates.

Q.—Have you a copy of it here? A.—No, I have not.

Q.—I have the same thing here. Probably it has been re-arranged a little. This first sheet shows the rates that were in force in 1893 when the Canadian Order was formed? A.—Yes. I would recognize them better on the printed slip. It was along with the policy and the other forms. It was a long slip.

Q.—You say some of the members are paying under the Sovereign Camp rates? A.—Yes.

Q.—Then others would pay the rates that were adopted in 1893 and continued till 1896? A.—Till 1896.

Q.—Then there would be another lot that would be paying rates that were adopted in 1896 and continued till 1900? A.—Yes.

Q.—Then there was a change made in 1900, was there not? A.—Yes, that is the present rate.

Q.—I thought there was another change in 1904? A.—No.

Q.—No change in 1904? A.—No change.

Q.—Are you sure of that? A.—I am sure.

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Q.—Is there not a difference in the \$2,500 rate? A.—There was a mistake in that rate and it was corrected.

Q.—That is the rate chargeable for \$2,500 insurance? A.—Yes.

Q.—Attached to that I have put in a copy of the table that was recommended in the year 1906? A.—Is that the table set out in the—

Q.—Yes, that is the table recommended, but not adopted? A.—Yes, changes were proposed almost every year. (Table of Rates, Exhibit 519).

Q.—Just to indicate some of the changes. At age 20 in 1891 the rate was \$4.80? A.—Yes.

Q.—In 1896 it was \$6; 1900, \$7.44; 1906, the proposal was \$10.80, but that was not carried out. At age 25, 1891, \$4.80; 1893, the same; 1896, \$7.20; 1900, \$8.16; 1906, the proposal was \$12.48. Now the Hunter's Table for the same age would be \$13.66, the National Fraternal Congress Table would be \$13.11 and the O.M. Table \$15.21. At age 35 your rates commenced at \$5.40 in 1891; \$6 in 1893 and in 1896 \$8.46; 1900, \$9.72, and in 1906 you proposed \$17.40. The Hunter Table would be \$18.50, the National Fraternal Congress \$18.25, and the O.M. Table \$20.26. Take age 55, your rate originally was \$18, and then changed to \$30 and continued at that for 1893 and 1896. 1900, \$36. In 1906 you proposed \$41.28. Hunter's table would be \$42.83, the National Fraternal Congress \$43.30, and the O.M. Table \$48.87. I will put that statement in showing the comparison of the different rates. (Exhibit 520). Of course, where the insurance specifies \$1,000 insurance it is in reality \$1,100 in your Society? A.—Yes.

Q.—Because there is \$100 paid towards a monument? A.—Yes.

Q.—Although there is some saving on that, but you cannot say how much? A.—There is some.

Q.—Do you know how much? A.—No.

Q.—Would it amount to \$500 a year? A.—I do not think it would be \$500 altogether.

Q.—Not from that source? A.—No.

Q.—Most of them want a monument? A.—Yes.

MR. KENT: Q.—Was the rate increased to the Maccabees when they came in? A.—No, the Maccabees are paying the same rate.

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MR. TILLEY: They are paying the rates of your Society on the date they joined? A.—Yes.

Q.—Taking them in as of their age when they insured with the Maccabees? A.—Yes.

Q.—No change that you have made on rates has ever been made to apply to members who were then paying other rates? A.—That is right. We never increased the rates on the old members.

Q.—Was there ever any attempt to increase the rate on the old members? A.—Yes, I think so.

Q.—And I suppose the old members were in the majority? A.—Yes, and they would probably vote it down.

Q.—There were no persons who were going to become members there, voting? A.—No, sir.

Q.—So they were not heard? A.—No.

Q.—I suppose that it would be practically impossible in your Order to get a resolution passed increasing the rates for old members? A.—I would not say impossible.

Q.—I did not say absolutely impossible. Would it not be practically impossible? A.—It would be very difficult.

Q.—You think there is a chance you could get it through? A.—Oh, I think so if it was thought necessary.

Q.—The Maccabees raised the rates on their own members, did they? A.—Yes.

Q.—Do you know what their membership was at the time you made the proposition you should take over their Camps? A.—Oh, it was pretty large.

Q.—How large? A.—I do not know how many.

Q.—Can you approximate? A.—Over 100,000 any way.

Q.—Who would then have to pay the higher rates? A.—Yes.

Q.—How many would there be to whom your offer would extend? A.—I suppose our offer extended to all those in the Province of Ontario.

Q.—How many would there be there? A.—I cannot say, perhaps 4 to 5,000.

Q.—And out of that body of members you got only about 400? A.—400.

Q.—Did any other fraternal societies bid against you? A.—Not that I know of.

MR. KENT: Q.—You think it was a profitable transaction looking at it from this time? A.—It has turned out all right so far.

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MR. TILLEY: Q.—Why did you say it had turned out all right? A.—Their death rate is no higher than our own.

Q.—That is to say those members who are sent to you? A.—Yes, it has proved so, so far, and their age was slightly under the average.

Q.—What do you say about the rates you are charging now? A.—As to their efficiency?

Q.—Yes? A.—I do not know what to think of them.

Q.—Should not some person in your position be thinking about that? A.—We do a good deal of thinking.

Q.—What is the conclusion? What is the result of it all? A.—Some of us think the rate is not high enough, some of us think it is too high.

Q.—What do you think yourself? A.—If you pay any attention to what actuaries say, it is a little low.

Q.—What do you think about it. We have had persons in the witness box who do not mind contradicting actuaries? A.—I think it is pretty low.

Q.—So that you need not be modest? A.—I have no desire to contradict actuaries.

Q.—You think the rates are too low? A.—I would not like to say that. The Order is doing very well at the present rate.

Q.—Certainly you get the members in, especially if they come into a society where the understanding is they will not increase the old members' rates, but make the new members pay? A.—There is no understanding to that effect, there is nothing in the by-laws.

Q.—You could raise the rates on the old members, if you cared to do so? A.—I think so. I think the law is wide enough for that.

Q.—You say the change that was proposed in 1906 involved almost double the amount? A.—Yes, quite an increase.

Q.—There was a report made on that proposal—apparently there were two reports sent in, one dated September 18th, 1901, and the Chairman of the Committee, Mr. Luscombe, made the report. The matters referred to the Committee were apparently the charging of the current rates, the increase of rates and the admission of women into the Order. The report says, "The Committee recommends that all the members of the Order, irrespective of the date of the issue of their certificates pay a uniform rate of assessment based on age at admission. (2) The Com-

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mittee further recommend that the rates payable by the Order be increased to the Hunter rates. (3) Committee further recommend the admission of women to the Order and for this purpose recommend that by-law 6 be amended by striking out the word male." That report was not adopted, recommending that increase? A.—No, that clause was struck out.

Q.—Another report was made apparently at the time it was proposed to change the rates in 1906? A.—Yes.

Q.—Report of January 30th, 1906? A.—Yes.

Q.—The Committee made a much longer report this time, and I will put in the two reports as Exhibit 521? A.—The last report is printed in the proceedings.

Q.—I shall not read much of the report, but I shall read the part that refers to this matter. After setting out the rates they go on to say, "This proposition, if adopted, will supply a schedule of rates to apply to all business taken after March 3rd, 1906 (reads.) To what body was that report submitted? A.—To the Head Camp.

Q.—At a meeting this year? A.—Yes, last March.

Q.—And what action was taken? Just voted it down? A.—There was considerable discussion.

Q.—Is the matter ended, or is the Committee still in existence and are you still considering the change in rates? A.—No, that is out of existence. That report is settled.

Q.—What is being done now with regard to rates? A.—Nothing.

Q.—Is there no Committee in existence? A.—No.

Q.—There is no movement on hand now to raise the rates? A.—None, it was very promptly sat upon at that meeting.

Q.—The delegates would not approve of it? A.—No.

Q.—What position did they take about it? That the rates were high enough? A.—They thought the rates were plenty high enough.

Q.—As high as they wanted to pay, but they thought the Society was on a sound financial basis? A.—I think they must have thought that or they would not have voted down the increase of rates. I cannot tell the individual ideas they had.

Q.—You can tell the ideas that they gave expression to at any rate? A.—Well, those that spoke against it were of the opinion that the rates

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were high enough and that the Society was solvent.

Q.—Because it had no liabilities at the present time outstanding, but what it could pay? A.—None whatever.

Q.—That was the standard of solvency, I suppose, that they applied? A.—Well, they were using those arguments.

Q.—The Society has never, I understand, computed what its liabilities on its policies are? A.—On the existing policies?

Q.—Yes? A.—No.

Q.—No estimate of the proper reserve has ever been made? A.—None.

Q.—And you have no idea as to the amount of liability figured out in that way? A.—No, not on an actuarial basis.

Q.—I suppose you would agree that the liability on the policies can be actuarially computed? A.—Oh, I should think so.

Q.—And the amount of that liability must be provided for ultimately? A.—Must be provided for, of course.

Q.—And that liability does not become pressing on the Society so long as it can keep on getting in new members fast enough? A.—I suppose getting in new members is a great assistance, it keeps the machinery going.

Q.—It keeps them able to pay the claims as they fall in, that is the principle is it not? A.—Any insurance institution would be in bad shape if they did not get in new members or new policies.

Q.—There is no doubt about that, but that is the very life of a Society where the rates are too low? A.—Well, where the rates are too low they must certainly get in new members and young members.

Q.—It is not so much their being new members, but they must be young members? A.—Young members.

MR. KENT: Q.—Could your association transfer all its insurance to some other association at the present rates you are receiving? A.—I do not know what you mean.

Q.—Do you know of any other association that would take over all your members at your rates? A.—I do not.

Q.—Supposing you had to put up as a reserve the amount of all your liabilities, what position would that put you in? A.—We would have to increase the rates or make more than 12 assessments a year.

MR. TILLEY: Q.—Do you base your rates for different amounts in

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exact proportion. For instance where the insurance is for \$1,000 do you charge double the rate for \$500? A.—We charge half for \$500 or a little more.

Q.—Where it is for \$1,000 you charge double what you would if it were only for \$500? A.—\$1,000 rate is not double the \$500 rate, but the \$2,000 is more than double the \$1,000. If you look at the first table, you will see the \$3,000 is more than three times the rate for \$1,000.

Q.—Do you know why you did not keep the premiums for different policies in proportion? A.—I think it was thought at the time this rate was made that two \$1,000 risks would be better than one \$2,000 risk.

Q.—You thought there would be an advantage in having the insurance on two lives for \$500 each rather than having it on one life for \$2,000? A.—Yes, that is right. The average policy last year was less than \$1,000, the average new policy.

MR. KENT: Q.—Do you think the figures in the report that has just been read are correct? A.—I think they are.

Q.—I mean as to collecting \$200 from each member? A.—Do you mean do I think the rates are right?

Q.—I ask you if you agree with the figures in the report? A.—They are pretty high, I would not like to say I do.

Q.—Would it be possible for you to collect \$200 for each member at the present time—say in one year—\$200 extra? A.—From each member? A.—No, I do not think they would pay it. The members might stand a reasonable increase, but \$200 a year would be out of the question.

Q.—But if they have been getting their insurance below cost for a number of years, that state of things cannot possibly continue? A.—No, certainly if they were getting it below cost it must be rectified some time.

Q.—Did any body in the Camp when that report was being considered, undertake to prove that the figures were not correct, or were they simply voted down without discussion as to whether they were correct or not—whether the calculations had been properly made? A.—I do not think there was anybody submitted figures to show that the table just read was not right.

Q.—It was like a man throwing an account out of the window because he did not want to pay it and it would come back again the next day? A.—You might put it that way.

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Q.—Closing your eyes to the deficit would not make it any the less? A.—No.

(The Commission adjourned on Thursday, September 27th, 1906, at 4.30 p.m. till Friday, 28th September at 10.30 a.m.)

SEVENTY-SIXTH DAY.

MORNING SESSION.

Toronto, Friday, Sept. 28, 1906.

Examination of WILLIAM C. FITZGERALD, continued by MR. TILLY:

Q.—Did you give me an estimate yesterday as to the amount of money you had transferred to the expense fund from the savings in respect of the \$100 for each monument for each insurer—did you say it would not be over \$500? A.—No, I did not think the savings would be any more than that.

Q.—During the whole time? A.—Yes.

Q.—Here is the statement you have handed in, moneys transferred from monument fund to the expense fund in 1900, \$2,150, 1901— A.—But you asked me for an estimate of what we saved on monuments where we should compromise with the beneficiaries.

Q.—I intended to ask you what you would be able to use for expenses as the saving from that payment which you should ordinarily make under your policy? A.—From the beginning.

Q.—Yes? A.—That is the statement there.

Q.—That is to say it is \$6,076.25. Then you transferred from insurance fund to the fund that we spoke of yesterday, called investigation fund, \$3,466.10?? A.—Yes.

Q.—Spread over those years? A.—Yes.

Q.—That would be on the basis of one per cent. of the receipts? A.—Yes, one per cent. of the receipts of assessments.

Q.—And that fund commenced in 1902 and has been in existence for the four years? A.—Yes.

Q.—Then you transferred from emergency fund to investigation fund \$56.84, why did you do that? A.—That is on the same basis.

Q.—That is to say the one per cent.? A.—The one per cent.

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Q.—Of the first premiums received from persons who insured during those years? A.—Yes, the first assessments.

Q.—You transferred from the sick and funeral benefit fund to the expense fund \$2,114.19? A.—Yes.

Q.—In three years; 1903, \$33.20; 1904, \$141.17; 1905, \$1,939.82? A.—Yes.

Q.—How did you fix on those amounts in the three years as being proper to transfer to the expense fund? A.—These were disbursements on account of the sick and benefit funds.

Q.—Did you keep a separate account of the expenses on account of sick and funeral business? A.—Of the charges we had against the fund for management.

Q.—Yes? A.—Yes.

Q.—Where is that? A.—In the old ledger.

Q.—Where is the old ledger? A.—We did not bring it.

Q.—I asked in my telegram specifically that you should bring all the old books as well as the new books? A.—We thought we had everything here.

Q.—You have not got that? A.—No.

Q.—Is not that in the new ledger? A.—No sir.

Q.—It is one of the items that has not been transferred into this new book? A.—It has not been transferred, that is a correct statement.

Q.—Tell me what items would enter into that? A.—Items of printing.

Q.—Stationery? A.—Yes.

Q.—Of course you could fix on the payments made for stationery of that department quite readily? A.—Quite easily, and then the—

Q.—How about organizers' expenses? A.—We charge no organizer expenses.

Q.—You have not charged anything against the sick and funeral fund? A.—Not for organization.

Q.—So that the general expense fund of the insurance branch pays all organizers' expenses? A.—Yes.

Q.—What else beside printing would enter into it? A.—The cost of securing the bill, putting through the Act, including the printing in connection with it.

Q.—That would make one expect to find the large payments in the early years, and smaller payments in the later years, but it increases from \$141 in 1904, to almost \$2,000 in 1905? A.

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—There would not be any money in the Department the first year to pay it.

Q.—Then in 1905 you were paying the liabilities which were incurred some time before? A.—Yes, two years before.

Q.—Had the society been owing those items or did the society pay it out of the insurance fund? A.—Pay it out of the general insurance fund.

Q.—Then you are charging against the sick and funeral funds items to offset what you have already paid out for the sick and funeral branch? A.—Yes.

Q.—And you have not anything here to show to us what that consists of? A.—No, but I can tell you what those items are, just about; the small items are for stationery.

Q.—And the item of \$2,000, what is that? A.—\$900 or something is for the cost of getting the Act through.

Q.—Who was that paid to? A.—General expenses, I got some of it, and for disbursements, cost of Bill, cost of printing notices in the "Gazette" and other papers, and travelling expenses, including a deputation to Ottawa three times.

Q.—If you had a few deputations it would be bound to run up? A.—Ours is very moderate.

Q.—What is the \$1,000? A.—The \$1,000 is an estimate of the cost of management of the funds for the three years.

Q.—That is about what I expected the answer would be, that you in the year 1905 charged against the funds of that society a round sum that you approximated would be about fair? A.—Yes.

Q.—As against the sick and funeral branch? A.—Yes.

Q.—But there is no account kept in connection with that, it did not build up in the account? A.—No, that did not build up in the account.

Q.—It is just an arbitrary division? A.—Yes, you could not make an account of that very well.

Q.—Probably based on what you were needing for expenses in that year? A.—I think based on the total expenses of the whole Order for the whole year.

Q.—The premiums that you charge are supposed to be net premiums, are they not—in an assessment society the assessments that you levy—we have put in a statement of them

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—they are net premiums as it were?
A.—Supposed to be.

Q.—Without any loading for expenses, the members of the Order are supposed to contribute their expenses otherwise, 15 cents— A.—In the Insurance Department, and 5 cents in the sick and funeral benefit.

Q.—That is the five cents is per capita per month? A.—Yes, or per assessment.

Q.—There is 15 cents per capita per month for the general insurance? A.—Yes.

Q.—And that is supposed to be a payment made to cover expenses? A.—Yes.

Q.—That would leave the assessments to be treated as net premiums without any loading? A.—Except what might have been added under the section of the Act which provides how the sick and funeral benefit is to be made up, under section 5.

Q.—The sick and funeral premiums are under the Act required to be made up according to some standard table? A.—Yes; there may have been a provision for expenses in that.

Q.—Let us eliminate that, because that was not an arbitrary premium fixed by yourselves, but take the assessments for the Insurance Department, they are to be regarded as net premiums, so to speak, without any loading at all? A.—Without any loading as far as I understand it.

Q.—I think you practically went so far yesterday as to admit that in your opinion the premiums are, if they err at all, too low rather than too high—that is putting it very mildly? A.—I do not think they are too high.

Q.—If they err at all they are too low? A.—I would not say they are too low because I really do not know.

Q.—We will leave it that way, that they are not too high. There have been several propositions to increase them, and in this year you are thinking of increasing them by 100 per cent.? A.—The proposition was quite in advance of the old rate.

Q.—Almost 100 per cent., and that proposition was made by a Committee who had the good and welfare of the Order at heart? A.—I believe so.

Q.—Men of prominence in the Order? A.—Quite prominent.

Q.—And who probably better than any others in the Order could say

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what was the right thing to do? A.—I suppose they said what in their judgment was best.

Q.—Their judgment I suppose by reason of the attention they had given to the affairs of the Order might be entitled to carry more weight than the judgment of any other two or three members of the Order? A.—That might be a little too strong, because I think some of the members of that Committee have not given the Order very much attention, although they are quite prominent men.

Q.—And their idea was that they should be doubled? A.—They might not have been very well versed in insurance rates.

Q.—Having that in mind, is not it perfectly obvious that having net premiums and having them at any rate as low as they can possibly be, that you have been making a mistake in taking off from these premiums paid in from insurance moneys, which by this circuitous route have been passed into the expense fund, taking the monument fund, the investigation fund, and payments from the sick and funeral branch, the latter not so much as the former? A.—I do not think there is any mistake.

Q.—You are taking money for expenses out of net premiums? A.—Permitted me to do so.

Q.—I am not saying the Act of Incorporation says that you must do so, but I am saying are not you taking away from a fund which is obviously already too small, money to be used to pay expenses? A.—Of course if we admit it is too small there might be something in that.

Q.—You do not admit it is too small? A.—I could not.

Q.—You mean to say it would be improper in your official capacity to admit that? A.—Yes, I think it would be quite improper.

Q.—Does any other assessment society carry on business with premiums as low as yours in Ontario? A.—A number of them have been raised within the last few years, I think the Canadian Foresters is as low as ours.

Q.—Is that the only one? A.—The only one I have in mind at the present time, I am not sure about the C.M.B.A., they were pretty low at one time, I don't know whether they have raised them recently or not. The Canadian Foresters I think is slightly under our rates.

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Q.—How long have the Canadian Foresters been carrying on business?
A.—It must be 25 years.

Q.—An older concern than yours?
A.—Yes, double the age.

Q.—And notwithstanding these moneys you have taken from the insurance moneys in this indirect method your expense account is still \$9,000 overdrawn at the present time? A.—Yes. That would be provided for by a tax which was levied at the last session, called a Sessional Tax.

Q.—Tell us about that Sessional Tax? A.—That is ten cents per annum per member to meet the expenses of the head camp. That will wipe off a large item.

Q.—I suppose that every short period of time you try to infuse some new energy into the organization branch of the business and get in new members. you make a special movement? A.—We have never made any very special efforts at any time.

Q.—Is there any such movement on foot at the present time? A.—No.

Q.—There is nothing you are now complaining of in the way of a special effort to get in new members? A.—No, nothing out of the ordinary.

Q.—Is it intended that the ten cents per member will wipe out this deficit of \$9,000, or are you going to get rid of it? A.—That will naturally wipe itself out, the expenses of head camp has been a great factor in keeping up the expense deficit.

Q.—This high expense of bringing your delegates together every year? A.—Yes.

Q.—And now that you have abolished one meeting out of every two meetings you think the expenses will not be so high? A.—No, certainly not; there is a large amount of expenses in connection with the head camp.

Q.—You have been having these statutory meetings now for several years? A.—I think we have had them since 1898.

Q.—And the expenses have been increasing rather than diminishing since 1898? A.—Of course the Order has been larger.

Q.—I mean the deficit has been increasing? A.—It has decreased last year.

Q.—I mean since 1898? A.—Certainly, it has increased some.

Statement showing the moneys transferred out of insurance moneys for the expense account filed as Exhibit 522.

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Q.—I think you said yesterday that there have been no rates raised to old members at any time? A.—Never.

Q.—Every person that joined is now paying on the same basis as the rates that are in force at the time he started? A.—Yes.

Q.—In 1902, I think it was, the Executive recommended to the head camp that old rates should be raised? A.—Yes, I think that was the year.

Q.—Was that with the practical unanimous approval of the Executive? A.—No, I do not think the Executive were unanimous.

Q.—How was that received by the head camp? A.—At that time?

Q.—Yes? A.—I think the Executive got very few backers.

Q.—Can you say how many members will be at the meeting of the head camp? A.—There might be 75 or 80 at that meeting.

Q.—How many of those voted in favour of raising the rates of the old members? A.—There was not any record kept of the pros and cons.

Q.—From your recollection? A.—How many voted in favour?

Q.—Yes? A.—I think 15 or 20 would be a fair estimate, perhaps not that many. Of course it is hard to tell in a body of men when they do not record the vote, how many are voting in favour.

Q.—I suppose where you are considering the advisability of raising the rates of old members what you fear is there might be a lot of members leave the order? A.—No, I do not think there would be a lot leave the order on account of raising the rates on the old members.

Q.—You think not? A.—No, because I think members who have been in for some time would remain in rather than go out.

Q.—The old members would remain? A.—Yes.

Q.—The new members would probably leave? A.—No, I do not think that. I do not think that has been the experience.

Q.—If any members left it would be the new members, the younger men? A.—If any left at all I should suppose it would be somebody recently in.

Q.—And that would tend to raise the average age of your members? A.—Well, if they were young members it would.

Q.—That would be the tendency, is there any question about that? A.—Yes, I suppose that would increase the average age.

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Q.—You have furnished the statement showing the ages of members in 1903 and again in 1905. At the end of 1903 the total number of members was 8,507, and the average age was 39.25. The average age of members 65 and under, 39.13—why did you make that division and show those under 65 separately? A.—Each year the raising of rates was considered.

Q.—That is at every head camp? A.—Every legislative meeting, and of course I tried to give as much information as possible as to the ages for the benefit of head camp.

Q.—Were you in favor of raising the rate personally? A.—If it was for the benefit of the Order I was.

Q.—Why do you fence, you know whether you were in favor of it or whether you were not? A.—Yes, I was in favor of it.

Q.—You are one of the members that have been trying to get the rates raised? A.—I did not make very much effort to get them raised. I looked on my position as official, and was there to do as I was told and carry out the orders of head camp.

Q.—Tell me this, in your opinion was the proposal of 1906 that we referred to yesterday a wise and judicious proposal on the part of the Order? A.—I think that proposal was high.

Q.—Have you any schedule of rates that has been proposed at any time that you think should be adopted? A.—No.

Q.—Because there have been many schedules proposed from time to time? A.—No, I have not any that I was particularly in favor of.

Q.—You give the number of members over sixty, and at different ages from that down to twenty, showing that the bulk of the members were between forty and fifty, were they not? A.—Yes.

Q.—And the average age of the new members admitted in 1903 was 31.44 years, and the average age of new members the year before was 32 years? A.—Yes.

Q.—So that that information was given I suppose because you knew that that was an important factor in considering the position of the Society? A.—Yes, I thought that was important for them to know how the ages were.

Q.—That indicated that the new members you were bringing in were helping to keep the average age down? A.—I certainly did, because

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the new members in 1905 the average age was 30.88.

Q.—In 1905 you prepared another statement and the total membership at that time was 10,318? A.—Yes.

Q.—The average age 39.25, the same as it was in 1903. The average age of members 65 years and under 39.7. Then comes the average age of new members in 1904, 30.88, showing that you had a younger class of members joining in that year than in the year 1903? A.—Yes.

Q.—And the average age of new members in 1904 was 30.17? A.—Yes.

—Statement of ages just referred to filed as Exhibit 523.

Q.—In your by-laws it is provided that every amendment of the by-laws shall refer to old members as well as new members, does it not? A.—Yes, generally.

Q.—Is there any exception in the case of the by-law fixing the rates? A.—No, not in the constitution.

Q.—Under by-law 112, which is the one now in existence, it is provided the assessments payable by every male member of the ordinary class shall be as follows, and then the schedule is set out? A.—Yes.

Q.—Is that insisted on as to all members? A.—No.

Q.—How do you explain that, when the by-law says by every male member? A.—The original notice of motion to amend the constitution was to apply to new members only.

Q.—That is in the way in which it was originally passed? A.—Yes.

Q.—This by-law has been approved formally since that time? A.—Yes, right along.

Q.—And under the wording of that by-law every new member of your order should be paying these rates? A.—Under the strict reading of it, without understanding how the amendments were made, it looks like that.

Q.—That is to say you have to go to something entirely outside of this by-law and this constitution to find anything that warrants you in making an exception of old members? A.—Yes.

Q.—Has there been any discussion at any time as to the binding effect of this by-law, that every person must pay these rates? A.—I do not recall any at the present time.

Q.—You see the shape it leaves matters in, a man that is asked to become a member of your Society is shown the constitution and by-laws, and he sees every member is paying

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these rates, he gets his policy and it shows the same thing, and yet you say, I suppose, a large percentage of your members are paying on lower rates? A.—Quite a large number.

Q.—Can you tell me how many members have come in since these rates that are in your present constitution have been established? A.—I think over one-half.

Q.—One-half since and one-half before? A.—Yes.

Q.—So that the half that came in before would be made an exception under your actual method of carrying out the work, whether it is strictly in accordance with the resolution or not? A.—Yes, under the resolutions of head camp.

Q.—That appears on the policy too? A.—Yes.

Q.—It says on the back of the policy— A.—We print all the by-laws after 1896 on the back of the policy.

Q.—And the rates are set out on the policy? A.—We print every by-law in full.

Q.—You print every by-law that relates to the conditions of membership? A.—Yes, I expect so.

Q.—Everything that affects the insurance? A.—Yes.

Form of policy filed as Exhibit 524.

MR. TILLEY: The by-law that indicates that the changes apply to all members is 130.

Q.—I will put in a statement showing how your rates would be if they were equalized, so that the man with the \$2,000 insurance paid in proportion to the man who had \$1,000 insurance—of course in each case the item for monument must be added—that indicates quite a substantial difference in some amounts, and not so much in others? A.—In the present rates?

Q.—Yes? First it is set out, taking the same age all the way through, at the age 45 it appears the rates of the old Sovereign Camp, and for instance your rate for a three thousand dollar policy in the old Sovereign Camp was \$1.80, if it had been in proportion to the \$1,000 policy, the charge would have been \$1.55? A.—\$1.65, three times 55 cents.

Q.—It is not three times 55, because the \$1,000 policy is really \$1.100, and the \$3,000 policy is really \$3.100? A.—Oh yes, that is right.

Q.—Then in 1893 there are differences all along the line; the \$1,500 policy the rate is \$1.15 and equalized on a thousand dollar policy it would

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be \$1.09. Taking the rates that are now in force, age 45, \$2,500, the rate you have is \$3.70? A.—Yes.

Q.—The equalized rate would be \$2.98? A.—Yes.

Q.—A difference of 72 cents? A.—Yes.

Q.—And \$2,000 policy your charge is \$4.41, and the equalized rate \$3.55? A.—Yes.

Table of equalized rates compared with actual rates marked as Exhibit 525.

Q.—I put in statement as well showing your insurance funds during the years you have been carrying on your work. The first column is the amount paid in by way of assessments; the second column is the amount paid out in death claims, and then you have the balance either in excess of the death claims or under the death claims paid out shown for each year? A.—Yes.

Q.—In the years 1895, 1896 and 1898 there was a shortage in the assessments paid in? A.—Yes.

Q.—In all the other years you have paid in excess of the death claim? A.—Yes.

Q.—And in 1905 the amount paid in in excess that way was \$30.645.85? A.—Yes.

Q.—The year before being \$13,278? A.—The year previous \$28,000.

Q.—In 1903, \$28,429? A.—Yes.

Q.—In 1901 it was only \$6,600? A.—Yes.

Q.—Since then it has been over ten thousand dollars every year? A.—Yes.

Q.—Most of the years about twenty-five to thirty thousand? A.—Yes.

Q.—Besides shortage by way of loan for expenses for \$9,542.60 you had office rent owing at the end of 1905 \$183.32? A.—Yes.

Q.—And your salary was owing? A.—Part of it.

Q.—\$1,136.96 was owing to you? A.—Yes.

Q.—Over what period did that extend, 1905, or have you always carried—? A.—There is always a balance due to me.

Q.—How much is there due now? A.—That has been reduced, possibly \$500 or \$600.

Q.—Is your shortage paid to you in the beginning of the year? A.—No, I just draw cheques whenever I require them.

Q.—Just as you need the money? A.—Yes.

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Q.—And that accounts for the money being left there? A.—Yes.

Q.—It is not kept there so that it will not appear as a loan? A.—No.

Q.—There was owing to Mr. Luscombe \$183.70? A.—Yes.

Q.—So that in all on account of expenses there was owing about \$11,000 including the loan to the bank at the end of 1905? A.—Yes.

Q.—How much do you pay the auditor of your company? A.—\$450 a year.

Q.—Or \$520, which? A.—\$450.

Q.—I thought the books show \$520? A.—That showed what he received, the rate is \$450.

Q.—Why did he receive more than the rate? A.—Possibly there was a balance due from the previous year to him.

Q.—It would be at the rate of \$450 a year? A.—Yes.

Q.—To what extent does he supervise the books of the Order, what time does he spend? A. He takes about a week every month.

Q.—A week each month checking over the cash coming in and the cash going out? Yes, and examines all the reports in reference to the various camps very carefully.

Q.—That is every return of a financial kind that you receive passes before him? A.—Yes.

Q.—And then he follows the payment of that cash to you into the books and watches every outgoing and sees there is proper authority for the payment? A.—Proper authority and proper vouchers.

Q.—His examination is practically an examination into the cash account? A.—He sees the members are properly credited with the various amount that come in.

Q.—But it is just a matter of following the cash into the bank and seeing the cheques that are issued from the bank? A.—Yes.

Q.—That is practically what his audit amounts to? A.—Yes, it entails a good deal of labor and detail.

Q.—In your return you say 10,438 policies and the amount of insurance \$11,499,000, I think? A.—I think that is the amount.

Q.—Does that amount of insurance that you have given just represent the face of the policy or does that take into account the \$100 for monument? A.—That is without the monument.

Q.—So that in addition there would be \$1,043,800? A.—There would be \$100 on each one of those policies.

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Q.—In respect of the monuments? A.—Yes.

Q.—Have you ever computed the amount of the reserve—I think you told me you had not? A.—No; the amount of the reserve on each policy?

Q.—Yes? A.—We did not consider there was any reserve.

Q.—The amount of your liability on each policy? A.—No.

MR. KENT: Did anybody else? A.—No sir.

Q.—You do not know what your liability is in respect of each policy? A.—No sir, we do not.

MR. TILLEY: I will put in table of rates for women and rates charged for sick and funeral benefits. (Marked as Exhibit 527).

Q.—You were asked to prepare a statement on which a valuation of your policies could be made? A.—Yes.

Q.—Did you do that? A.—We are preparing it.

Q.—You will hand to the secretary of the commission a statement showing the amount of insurance in force 31st September, 1905, and of the insurance issued in each calendar year, 1891 to 1905, inclusive, subdivided according to ages at entry? A.—Yes, we have been working on that ever since we have been asked for it.

Q.—And also a statement of the monthly premium payable upon that insurance arranged and subdivided the same way? A.—Yes sir.

Q.—Is the Commander Hodgins here? A.—He is not here yet.

Q.—Have you had no word from him since he was requested to come? A.—I have had no word. I sent for him yesterday.

Q.—And also the day before? A.—Yes.

Q.—And you have had no word from him at all? A.—No. He may be on the way. He could not get here till half-past twelve.

Q.—You have no word whether he is on the way or not? A.—No.

MR. TILLEY: That is all I care to ask Mr. Fitzgerald at the present time. Mr. Luscombe suggested yesterday that some further changes would be made in the system, and I am sure the Commission will be glad to see any changes that are made before any report is made by the Commission. We cannot make any check of the accuracy of the statements as they stand now. But if any changes are made, if the Commission is advised I think that the accountant

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would be sent to examine their books before the Report is made—that is if they choose to change their system and advise us of it.

MR. LANGMUIR: Do I understand an effort is going to be made to get the books in proper order?

MR. TILLEY: Just what Mr. Luscombe said yesterday. That is all I know.

MR. LUSCOMBE: The accountant of the Commission states in his evidence that the books are all right, so far as the books kept are concerned, but that the balances are not assembled in a general ledger. It is that ledger that we propose to evolve. An attempt has been made at it but so far we have not been successful, at least it has not met with the approval of Mr. Edwards, but we shall have that change made, so that the balances may be assembled to satisfy him.

JUDGE MAC TAVISH: I understand Mr. Edwards' suggestions commend themselves to the Society as being the proper way to keep the books of the Society.

MR. LUSCOMBE: Yes. We shall be glad indeed to have any assistance from Mr. Edwards in presenting the affairs of the Society in a proper form.

JUDGE MAC TAVISH: The books should be completed before the investigation closes, so that there may be a thorough audit. I do not mean to suggest that there is any evidence of anything wrong, but it is better to remove the impression that there is any uncertainty about the state of the accounts in so far as the Society is concerned.

MR. LUSCOMBE: Yes. The Society, of course, is quite satisfied that the accounts are accurate, and we shall be very happy to show that to Mr. Edwards in any form that he desires.

MR. TILLEY: Then that matter had just be better left open in that way for the present, and Mr. Fitzgerald has promised to send schedules of their policies, and we may have something to present to your Honors regarding that at a later date, and if it is necessary then, or thought advisable, we can secure Mr. Hodgins at that time. If Mr. Hodgins should be here before we adjourn to-day we can ask him some questions. If not, probably in Ottawa or at some other time we could close that up.

MR. KENT: Q.—Do you know what is the actual cost of insurance

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as regards membership? A.—From an actuarial standpoint?

Q.—Yes? A.—No sir, I do not.

Q.—Is there anybody in your Order on your Executive Committee, that knows? A.—No, I do not think there is.

Q.—This is a prospectus that apparently has been approved of by your Executive Council, has it not? A.—Yes.

Q.—Then your members are bound to conclude that this prospectus contains the truth, are they not? A.—I should think so, yes.

Q.—Amongst other things you say, "The books and securities of the Order are regularly examined by the Superintendent of Insurance for the Dominion Government." Is that the fact? A.—Yes, every year, except this year—at least he checks up the statements from the books.

Q.—Were the books he saw in London the books you say were examined by the Superintendent of Insurance? A.—Yes, or his Deputy.

Q.—Mr. Blackadar? A.—Mr. Blackadar.

Q.—And did Mr. Blackadar approve of the books? A.—Well, he expressed no disapproval.

Q.—You say Mr. Blackadar examined your books and made no objection thereto? A.—Made none to me. I did not see him the last time at all. I was out of the city. He examined them in my absence.

Q.—What do you understand by a reserve in connection with your Order, when you speak in this prospectus of "a fair and equitable reserve for the protection of members?" A.—I think that referred to sufficient cash reserve or an invested reserve. That is what, no doubt, was the intention of that statement. I do not think that referred to an actual valuation of each policy from an actuarial standpoint.

Q.—You have already said that you maintain no reserve at all; you have simply a surplus? A.—Yes.

Q.—A surplus of assets over liabilities? A.—Yes, perhaps that would cover it better than reserve.

Q.—There is no reserve as far as I have seen in your books; you have simply an excess of assets over liabilities? A.—Yes.

Q.—But there is not a reserve. You can take away that excess at any time. You say in this circular that you protect your members at actual cost. If there is nobody in

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your Order that knows what the actual cost is, how is it possible to say you are carrying your members at actual cost? A.—I have no doubt but that whoever prepared the rates considered that that would cover the cost.

Q.—But as these rates have been several times increased, and as it is proposed by the most far-seeing of your members to still further increase them, it must be evident to you that these rates are still inadequate. Don't you think that in view of all these things, that your prospective members have been deceived by this prospectus? A.—I do not think so, Mr. Kent. I think the statements were honestly made there.

Q.—But they are not correct? A.—Oh, some of them may not have been correct from a technical point of view.

Q.—Nor from any point of view. You say you are maintaining an adequate reserve. There is a beautiful sermon in this prospectus, and if it is reasonably correct it should lead to a great increase in your membership. There is something I very much admire in this, and that is why I wanted to find out if it was correct. After going through the question of what should be done in a properly conducted Order you say "On these sound principles the good of the craft is built." Among other things it says "to educate the people to the fact that no institution can afford positive protection unless the members thereof shall contribute a sufficient amount to pay for it?" A.—Yes.

Q.—To that no exception can be taken. If your association lives up to that you will be a model association? A.—I think when these things were fixed they thought they were providing an adequate rate.

Q.—You have admitted that they have been sadly inadequate because it has been proposed to double them? A.—Of course that did not go into effect. That was only a proposition and did not become law. It did not pass.

Q.—But the reason it did not become law was not because anybody was able to say the proposition was not correct? A.—A large number of the delegates honestly felt that they were paying sufficient. There is no doubt about that. I would not say that any member who voted against it thought he was not paying enough.

Q.—But no member was able to show what the amount should be in a pro-

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perly conducted association? A.—Well, they did not show it.

Q.—Is it not the fact, to your own knowledge, that all these associations have been increasing their rates for years past? A.—Yes, quite a number.

MR. TILLEY: Q.—Was this report that we read, Exhibit 521, made in 1906 by the Special Committee, approved by the Executive? A.—I am not certain whether it was or not. The Executive appointed this Committee to make the Report.

Q.—Can you say from your Minute Book whether the Executive approved of that? A.—What date was that Report?

Q.—January 30th? A.—No, that was not approved by the Executive. The Executive had no meeting after it. October 4th is their last meeting.

Q.—Where is the reference to it in the Head Camp Minutes for 1906? A.—January 30th, page 83.

Q.—You referred to the Meetings of the Head Camp in 1906, and at page 83 the Committee of the whole then considered these by-laws relating to rates and conditions of policies. Is that it? A.—That is the one.

Q.—"A motion was carried that this be considered by-law by by-law." Is this the report printed here, January 30th, 1906? A.—Yes.

Q.—That was proposed as early as 1895, was it? A.—Well, the amendment I think, refers to 112, in reference to the assessment.

Q.—Re by-law 112, Clause (a) carried. What was Clause (a)? Clause (a) provided that on reaching 70 years of age the insured's policy should be paid to him in instalments, one-tenth of his policy each year? A.—I think that the clause referred to was in the printed notice of motion. You see there were notices of motion given of all the proposed amendments, including the amendment referred to in that report.

Q.—When it says 112, Clause (a) in the printed minutes, at page 92, what clause is that referring to? A.—I think that refers to a clause in the notice of motion.

Q.—Where is the notice of motion? A.—It was not printed in the proceedings.

Q.—As a matter of fact what clause did it refer to? What change was made by that resolution adopting the recommendation of clause (a)? A.—

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I think there was a clerical error in the reading of this.

Q.—Reading of what? A.—112, the first part of it. I think that is what it was.

Q.—Would that be shown by the printed memo. the changes made this year? A.—Yes, it should be shown.

Q.—“That by-law 112 (a) be amended by inserting a column” (reads)? A.—Yes.

Q.—So that that clause (a) does not refer to clause (a) in the report of the Special Committee? A.—No.

Q.—Then clause (b) was carried? A.—Yes.

Q.—What does that mean? A.—I could not say without referring to the notice of motion.

Q.—Your minutes are not complete? A.—No, sir. I can furnish you the notice of motion.

Q.—This does not refer to anything that is in the minutes, these clauses (a), (b) and (c)? A.—No sir, they are very much mixed up.

Q.—I want to know what was done on this report?

MR. LUSCOMBE: Here is the report.

MR. GEARY: That was not submitted to the Executive?

WITNESS: No.

MR. TILLEY: Q.—There was no meeting of the Executive? A.—No.

Q.—You cannot explain how the minutes cover that, but you say that that report as to the increase of rates was voted down? A.—Oh yes, voted down.

Q.—And it never came before the Executive, because there is no meeting of the Executive after the report is made, and the Head Camp Meeting? A.—No meeting.

Q.—How often does the Executive meet? A.—It meets three times a year.

Q.—Appointed by the Head Camp? A.—Yes.

Q.—And consists of how many members? A.—Eleven.

Q.—At page 92 of the Minutes for the 1906 meeting, this appears, “The Committee said that they did not wish to submit the clause as printed.” (That is clause (f)) “but substitute another as follows.” Clause (f) is the clause of the report that refers to this matter of raising the rates? A.—Yes.

Q.—And this is the clause that was proposed in lieu of it; “your Committee in view of the fact that the National Fraternal Congress is en-

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(W. C. Fitzgerald, Ex'd.)

gaged in a revision of the experience and rates of fraternal societies and in view of the present Insurance Investigation at Ottawa, beg leave to substitute in place of clause (f) the following ‘we recommend that the adoption of a new rate be referred to a sub-committee of this Head Camp to investigate.’” That was lost? A.—Yes.

Q.—So that the Head Camp in 1906 refused to take any action at all with regard to raising the rates? A.—Yes.

Q.—But in 1902 the Minutes show “that the Committee appointed at the last meeting recommended that all the members of the Order irrespective of the date of the issue of their certificates, pay a uniform rate of assessment, based on the age at admission?” A.—Yes, the Committee recommended that.

Q.—The Committee further recommend that the admission of women to the Order be provided for? A.—Yes.

Q.—Those two matters in the Special Report of the Committee of that year, were approved by the Executive Committee? A.—Yes.

Q.—Then the third recommendation of the Committee that the rates payable by the members of the Order be increased to the Hunter rates, the Executive Council voted down? A.—The Council amended that by striking out that clause.

Q.—Then the Report going to the Head Camp with these two clauses, one as to making the old rates apply to new members and the other as to the admission of women—that came before the Head Camp; Clause 16 (b), No. 17, by-law No. 112 re levelling of rates; lost.” So that that indicated the disposition of the Head Camp in 1902? A.—Yes.

MR. GEARY: Q.—Just a word as to this Report. This was presented by the Special Committee too late to be dealt with at a meeting of the Executive before the Head Camp met? A.—I do not know that the Executive Committee intended this Committee to report before it was presented to Head Camp.

Q.—Your understanding is that that report was not submitted in time? A.—Well, it was not submitted to the Executive. There was not any meeting to submit it to.

Q.—Was that report submitted to the general membership in any way

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before the Head Camp Meeting? A.

—Yes, that whole report was printed.

Q.—Before they had elected delegates? A.—Yes.

Q.—So that the members came prepared? A.—Prepared to discuss it.

Q.—Instructed by their Local Camps in many instances? A.—Yes, and it was printed in the official organ in January, two months before.

Q.—And the Executive, however, has taken no official action in regard to it? A.—No.

Q.—There was no propaganda carried out—no campaign of education? A.—No, except what was stated on the floor of the Head Camp.

Q.—There has been no general campaign carried on from Camp Headquarters? A.—No.

Q.—And the Local Camps? A.—No.

Q.—It just occurred to me that possibly it was a matter of education— A.—Well, of course a great many that were in favor of this report would discuss that in their own Camp with their own members.

Q.—But you did take no official action in the way of a campaign of education throughout— A.—No, except to print everything in connection with this report in the official organ. Every member of the Order got that.

Q.—Was the discussion full and free on the floor at Head Camp? A.—Quite full and free.

Q.—Was the inequality between the rates of old members and those of later date pointed out there? A.—Yes.

Q.—And those of a later date fell in with the old ones in refusing to raise them? A.—Those in favor of raising the rates pointed out all the distinction they could see.

MR. GEARY: I put in this statement of rates. (Part of Exhibit 527 already put in.)

UNION LIFE INSURANCE COMPANY.

MR. TILLEY: I propose now to ask Mr. Symons a few questions regarding the transaction that has recently taken place between the Union Life or the National Agency and the Toronto Life.

HARRY SYMONS re-called; examined by

MR. TILLEY: Q.—Since the affairs of the Union Life were investigated by the Commission a transaction has

taken place in regard to the business of the Toronto Life Insurance Company, was it? A.—Yes, that was consummated on the 2nd June.

Q.—The Toronto Life was a company carrying on business with an Ontario License only? A.—Yes.

Q.—It had no Dominion license? A.—No, although they transacted business I understand in the various Provinces by licenses.

Q.—It in each case procures licenses from the Provincial authority rather than taking out a Dominion license? A.—Yes.

Q.—The transaction that you speak of—was it made with the National Agency Company or with the Union Life? A.—Well, the National Agency Company purchased a controlling interest in the stock of the Toronto Life, and contemporaneously made a re-insurance agreement with the Union Life, under which the Union Life guaranteed the outstanding policies of the Toronto Life.

Q.—That is to say the National Agency Company in a way became the owner of the Toronto Life by reason of getting a control of stock? A.—Yes.

Q.—And then a transaction was entered into by the Toronto Life as then constituted, I suppose? A.—Yes.

Q.—With the Union Life? A.—Yes.

Q.—For the re-insurance of the Toronto Life business? A.—Yes.

Q.—The intention of the transaction being that the Toronto Life should cease business, I suppose? A.—Well, that had not been determined at that time. The object was mainly to protect the Toronto Life business through the medium of the Union Life, and it would result, of course, in the business being taken over by the Union Life—the then business.

Q.—And it was intended—expected at any rate—that the Toronto Life would not carry on business any longer? A.—Yes, that is quite a possibility.

Q.—Who carried on the negotiations for the acquiring of control of the Toronto Life? A.—On behalf of the National Agency Company by Mr. Evans and myself, and on behalf of the National Trust Company, who were liquidators of the York County Loan, who owned the controlling interest in the Toronto Life by Mr. Home Smith.

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Q.—I suppose you are familiar with the transaction from its initiation?
A.—Yes.

Q.—The York Loan having gone into liquidation its holding of stock in the Toronto Life had to be disposed of by the National Trust Company, the liquidators? A.—Yes.

Q.—That holding having been offered for sale was the time you and Evans considered the advisability of entering into the transaction regarding it? A.—Yes. Tenders were invited and we put in our tender.

Q.—Did the National Trust Company control a majority of the stock of the Toronto Life? A.—Well, the National Trust, as liquidator of the York County, did not have that controlling interest in the Toronto Life stock, but they obtained the co-operation of some of the other shareholders of the Toronto Life, so that they might deliver a control to the purchaser.

Q.—You stipulated for control? A.—Certainly.

Q.—And failing to be able to hand over to you the control your transaction would fall through? A.—Yes.

Q.—Unless some arrangement was made? A.—Yes, it was no value to anybody unless the control passed.

Q.—Can you say what percentage of the capital stock was controlled by the National Trust Company before they set themselves out to get some more control or further shares? A.—I think if you will allow me to look at the agreement I could tell you. They had 1,611 shares out of 3,414. That was a little less than half. Then they obtained the consent I see, of other shareholders, or authority from other shareholders, to sell 276 shares in addition to theirs, which gave the control, and both of those lots of stock were covered by the agreement that was made ultimately by the National Trust and the National Agency.

Q.—Then the control that you were stipulating for was an actual majority of the shares? A.—A majority of the shares and also the control of the Board; that is the resignation of four out of five.

Q.—Would you just state why, in your opinion, it was essential to the transaction that you should obtain control of the stock and control of the Board in that way? A.—Well, because the policy of the Toronto Life had necessarily to enter into the matter, and unless the National

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Agency could control that policy, it would be absolutely useless to them.

Q.—The National Agency had to take absolute control of the Board of Directors and the shareholders, so that it could pass such resolutions as it thought proper? A.—Yes. For protection generally.

Q.—The intention being that it should use that control for the purpose of aiding itself, the National Agency Company and the Union Life? A.—Certainly.

Q.—Not because it wanted to step in and acquire the Toronto Life business and carry it on as a going concern? A.—Well, I might mention that that had not been absolutely determined at first, as to what would be the ultimate destiny of the Toronto Life. We had thought that it would be consistent for the National Agency to operate both companies if need be, the Union Life as an Industrial Life Company, and the Toronto Life as a general company, but in the meantime the policyholders of the Toronto Life had to be protected because of the unfortunate rumors that were in circulation in connection with the York County Loan and the Toronto Life; hence the re-insurance agreement was made effectual at once. That action was not considered to be inconsistent with the possibility of the Toronto Life going into business if that should be finally determined.

Q.—At a later date? A.—At a later date.

Q.—That is to say you were not in any way attempting to put through a transaction which would involve the surrender of the charter? A.—The wiping out of the Toronto Life—no.

Q.—You proposed to keep it alive? A.—Yes.

Q.—Did you investigate the affairs of the Toronto Life preparatory to entering into the transaction? A.—Yes, in a limited way.

Q.—What did you find out about that? A.—I may say the National Trust when they invited tenders, opened the office doors and placed the books and papers of the Order absolutely at the service of the proposed tenderers, and acting upon that invitation the Union Life sent members of its staff up to the Toronto Life offices, examined their books and papers as thoroughly as they could in the short time at their disposal. I suppose I may say that perhaps two days were spent at the Toronto Life offices, and that representatives of all the branches of the service were there,

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including myself as legal adviser, and I may say that we were assisted in that by Mr. Home Smith of the National Trust, by Mr. Bradshaw, who was the actuary advising the Liquidator, and by members and officers generally of the Toronto Life. Every facility was offered to us and to others who were up there examining into the affairs.

MR. LANGMUIR: Q.—What was the amount of business written by the Toronto Life? A.—About 2½ million.

JUDGE MAC TAVISH: How were you able to ascertain that? A.—The returns showed that; 'whether that is the actual figure or not has not yet been actually determined. But I think we can discuss it on that basis.

MR. TILLEY: Q.—There is an Annual Statement written by the Toronto Life showing the condition of the Company on the 31st December, 1905? A.—That was printed and issued by them.

Q.—By the Toronto Life? A.—Yes.

Q.—Have you, so far as you have been able to ascertain determined whether that is a correct showing of the Company's business? A.—Well, we did not base our investigation upon that report at all. We acted on the statement prepared by the National Trust and sent to the proposed tenderers.

Q.—Have you that here? A.—I gave a copy of that to Mr. Dawson. In fact I did not see this printed one for some time after.

Q.—Then this is a statement that was issued by the National Trust to any person who desired information on which to base a tender? A.—As of the 30th April, 1906.

Q.—Did you make any computation of the reserve that should be held for the policies of the Toronto Life? A.—I may say that we were advised, on the rough, so to speak, that, assuming that there was 2½ millions of insurance in force or thereabouts, it would probably be necessary to have on reserve, \$150,000 or \$250,000.

Q.—That was just a rough estimate made? A.—Yes.

Q.—There was no careful actuarial valuation? A.—No careful actuarial valuation made even to-day.

Q.—It is provided that it shall be made? A.—Yes.

Q.—Who is to make it? A.—Mr. Charles D. Muckle.

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Q.—That has not yet been done? A.—No.

Q.—This statement that was submitted was intended to show the amount of business that was in force at the time that you were entering into these negotiations? A.—Assumed to be in force. There is no guarantee that these statements are accurate.

Q.—On the 31st December, 1905, the insurance in force was \$3,492,065? A.—Well, that had run off a good deal. There was a considerable amount of lapsing.

Q.—In the period between the end of the previous year and the time you were negotiating there had been written \$24,692, making in all \$3,516,757, but there had been a large lapse in the four months? A.—Yes.

Q.—Of \$872,195, leaving in force on May 1st \$2,644,562? A.—Yes; that is according to the best figures which the National Trust were able to give us at that time.

Q.—And then they furnished you with a list of the mortgages showing the amount due? A.—Yes.

Q.—And some agreements with medical examiners? A.—Yes.

Q.—What was the nature of that document? A.—I put in a form of that agreement.

Q.—This was an agreement between the Toronto Life and the medical examiners? A.—Yes.

Q.—And that was submitted to you by the National Trust to indicate the agreement that was then outstanding with respect to the medical examiners. Is that right? A.—It was presented to us as the arrangement with the medical examiners, but it is an arrangement which they had sought in various ways to have terminated.

Q.—Which the Toronto Life had? A.—It was found that that contract possibly was ultra vires of the company and that the policies issued under that agreement were uncollectable, and might result in disappointment. They had already taken measures to call in those contracts, of which there were some 100 or 130, I think.

Q.—112? A.—Yes, and the great bulk of those had already come in. The medical gentlemen had surrendered the contract and the policies. I think that is the policy the Union Life has been following up since. (Copy of contract Exhibit 528.)

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Q.—And then it gives the scale that would be the basis of remuneration for the doctors.

Q.—Between \$250 and \$500, \$1; between \$500 and \$2,000, \$2, and so on. Then the statement at the bottom, "the above terms are accepted." The meaning of that is that the Toronto Life would insure the doctors? A.—Yes.

Q.—Give him a policy? A.—Yes.

Q.—It does not say for any definite amount? A.—The amounts varied from \$1,000 to \$5,000.

Q.—Depending on the terms they made with the doctor? A.—Yes, and I should say on the volume of business likely to be done at the point where the doctor lived.

Q.—They had issued the policy, credited the first three premiums on the policy— A.—Yes.

Q.—And if his fees did not amount to that sum there was no way in which the company could get any return from the doctor in respect of the storage? A.—No.

Q.—If the fees exceeded those premiums it could be credited on future premiums or paid in cash? A.—Yes.

Q.—And you say that contract you are trying to get rid of; your effort has been to get rid of these contracts? A.—Yes.

Q.—How many of them are there outstanding now? A.—Well, there are very few, they are nearly all in. There are a couple of suits pending with regard to them.

Q.—Suits brought— A.—By medical men to have it declared those contracts are valid.

Q.—Against your company? A.—Against the Toronto Life, and if they are valid against the Toronto Life we have to assume them.

Q.—Those actions were brought since the amalgamation? A.—Since the 2nd June.

Q.—And you are contesting them? A.—Yes.

Q.—On the ground that it was ultra vires of the company to enter into them? A.—Yes, and improvident and other reasons. I think it is one of the most injudicious agreements ever made.

Q.—It is stated that at the time you were negotiating in the middle of May, 1906, there were outstanding 48 doctors' policies, amounting to \$139,000 of insurance? A.—I should say all those had come in, excepting possibly 8 or 10.

Q.—The annual premiums on those 48 policies then outstanding were \$21,471.90, and the actual earnings of the doctors, \$6,177.25? A.—Yes. We could never hope to collect the difference.

Q.—There is no way of collecting it? A.—No possible way of collecting it.

Q.—So that there was a balance in respect of that contract of \$15,000 odd? A.—Yes, I think in justice to the medical men I should say this: that with two exceptions which I have mentioned—and there were special reasons entering into those two cases—they have almost unanimously fallen in with the idea that those contracts were unsupportable and that they were injudicious, and many of them have written to that effect, and many of them have so stated to me and the other officers of the company verbally, and they have not hesitated to surrender their contracts on fair consideration, fair compromise, and that has had the effect of relieving both the companies very considerably, and making things very much more pleasant as between the companies and the medical gentlemen.

Q.—Then a statement of receipts and disbursements for the four months was presented, showing that the receipts were \$12,166 and the disbursements \$27,162? A.—That was a furnished statement.

Q.—That would indicate a falling off just the same way as the lapse would indicate a falling away? A.—Yes.

Q.—Which was due to the difficulty with the York Loan? A.—Yes, and the shareholders of the Toronto Life and the National Trust were not giving up any money; they simply took the receipts—

Q.—If the business had continued in that way much longer I suppose there would have been a general refusal to pay premiums? A.—Yes, there would have been a general liquidation. It was an unfortunate state of things.

Q.—The capital the Toronto Life had at that time was what amount? A.—The number of shares subscribed were 3,414; that is \$100 each. That made the capital subscribed, \$341,000, and the stock was sold at a premium of 25 per cent. The amount that was paid on principal account was \$73,216.58. The amount paid in on premiums on stock account I find was

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\$41,988.80. Making a total of paid on both accounts \$115,205.44.

Q.—How long had the Toronto Life been carrying on business? A.—I think from the middle of 1903.

Q.—And the capital stock—was it impaired on the 31st December, 1905? A.—Well, I should say so, taking the subsequent events.

Q.—Taking what you subsequently ascertained? A.—Yes.

Q.—Do you know what the impairment would amount to at that time? A.—Well, I would not like to give you a figure. Of course the assets had dwindled down so much then.

Q.—According to this printed statement which they furnished it showed the capital stock as \$73,216.58, paid up, and the surplus, after allowing for that capital stock, is shown to be \$10,439.34? A.—Yes. I would not care to criticize the statement in 1905. All we can go upon are the statements as they present themselves to us on the 30th April, 1906.

Q.—Could you say on the 30th April how the capital stock would stand? Of course there had been a considerable payment out over receipts in that four months? A.—Yes.

(Annual Statement, Toronto Life, Exhibit 529).

Q.—Can you say what the impairment would have been? A.—No, I could not give that figure.

Q.—Did you put in a tender? A.—Yes.

Q.—Was it put in in the form in which it was afterwards accepted and carried through? A.—Practically so.

Q.—The tender was made on May 28th, 1906, and was a tender for the purchase of 1,812 shares of the capital stock of the Toronto Life, upon which there is said to have been paid the sum of \$41,830 for principal and \$26,296.19 premium; in all \$68,126.19. Then your tender was at the rate of 80 per cent. of the total, amounting in all to \$54,500.95. That is 80 per cent. of the principal and premium? A.—Yes.

Q.—So that it was not \$80 per share? A.—No.

Q.—It was more than that? A.—It was more than that—80 per cent. of the total amount paid on the shares.

Q.—And you enclosed a marked cheque for 10 per cent. of the amount of the tender, being \$5,450.09, and then your offer was made subject to certain exceptions; probably you will be good enough to let us have a copy

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of this? A.—Yes, I will have a copy made. (Exhibit 530).

Q.—“The conditions are that it is to be accepted not later than 2 p.m. on May 30th” (reads). In that provision you are protecting yourselves against any undisclosed claims of the York Loan against the Toronto Life? A.—Yes.

Q.—Then the fourth condition is that the officers and directors of the Toronto Life shall resign, previously arranging that the remaining directors to be elected in place of those resigning shall be the nominees of the National Agency Company? A.—Yes.

Q.—And then upon acceptance of the tender you were to enter into practical control of the business, and that offer was made by the National Agency Company, through you as President and Mr. Evans as Secretary? A.—Yes.

Q.—Then that led to the agreement which was made between you. The agreement was made between the National Trust Company, Liquidator, and the York County Loan and Savings Company of the first part, and the National Agency Company of the second part. (Exhibit 531). It recites the Order of the High Court to wind up the County Loan and the appointment of the National Trust as Liquidators and the reference to the Official Referee and the sale of 1,611 shares and the capital stock of the Life Insurance Company for a sum of \$50,000? A.—That is the National Trust Company.

Q.—That was not the amount you mentioned in your tender? A.—No.

Q.—That was the amount you then had in hand? A.—Yes.

MR. LANGMUIR: Q.—What was paid up? A.—There is 20 per cent. more than that.

Q.—They were \$100 shares? A.—Yes. There would be about \$60,000 paid up.

MR. TILLEY: Q.—And the agreement provided for the sum of \$50,000 odd? A.—Yes.

Q.—Do you say that was more than paid up on them? A.—Oh no, Mr. Langmuir asked me how much had been paid up on them, and I said about 20 per cent. more than that.

Q.—Are both those sums based on 80 per cent. of the principal and premium paid on the shares? A.—Yes.

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Q.—“The party of the first part has agreed to sell and the party of the second part has agreed to buy” (reads). So that that was an agreement whereby you were to acquire the York County shares and the additional shares mentioned on the basis of 80 per cent. of the total amount that had been paid in? A.—Yes.

Q.—And you were to have control of the Board of Directors as provided in that agreement? A.—Yes.

Q.—No agreement, of course, had then been made for the re-insuring of the Toronto Life business up to that time? A.—No, not up to that time.

Q.—I suppose you had mapped out the agreement you were going to make? A.—Yes.

Q.—Have you the Minutes to show what transpired at the meeting? A.—Yes.

Q.—There is a meeting of the Toronto Life April 24th, 1906? A.—Yes.

Q.—That meeting was for the purpose of substituting National Trust officers on the Board of Directors for the previous directors? A.—Yes, I so read it that way.

Q.—State what the Minutes show in respect to that? A.—The Minutes of the 24th April, 1906, show that Mr. White was in the Chair—no, that is the wrong minute—24th April, transfers 140 to 179 were approved, and approved that the resignations of certain gentlemen be accepted; that is Phillips and Burt.

Q.—And then Mr. White was elected director? A.—Yes, to fill the vacancy caused by the resignation of Mr. Phillips, and then on the same day Mr. White took the chair.

Q.—And Mr. Smith took Mr. Burt's place on the Board? A.—Yes. I believe those were the only two gentlemen who were substituted.

Q.—Then there was a meeting on April 30th? A.—Yes, confirming previous minutes, appointing the Manager, and directions given to employ one general agent for the purpose of completing settlements with the Company's general medical examiners, etc.

Q.—Mr. Bradshaw of the Imperial was to make an investigation and report? A.—Yes.

Q.—Has any report ever been made? A.—No.

Q.—That has never come to your hands? A.—No.

Q.—On June 2nd, apparently, your

arrangement was in shape to be carried through? A.—Yes.

Q.—What happened on June 2nd?

A.—On the 2nd June Mr. White resigned as President and Director, and I was elected to fill the vacancy as director, a transfer having been made to me of the necessary qualification. Then a second meeting the same day took place when Mr. Binn resigned, and Mr. Millichamp was elected director. On the transfer of shares by the National Trust; the third meeting took place immediately at which Mr. Millichamp was present. Well, I may say at the second meeting Mr. Hammond resigned.

Q.—And Dr. Millichamp took his place? A.—Yes.

Q.—Then a meeting was held when Mr. Lynd resigned and Evans was appointed.

Q.—And then another meeting was held at once? A.—And Dr. Millichamp was elected President, and another meeting was held with Dr. Millichamp in the chair, and at that meeting the re-insurance agreement was put into effect.

Q.—Then Mr. Home Smith resigned at that meeting and Mr. McGowan was appointed director in his place? A.—Yes.

Q.—Who was he? A.—Director of the National Agency Company, residing in Alma, Ontario, formerly a member of Parliament.

Q.—He is connected with your company? A.—Yes.

Q.—And then Mr. Carrick who is also— A.—He was our accountant and was made Secretary-Treasurer in the place of Lynd.

Q.—At that time you had all your men on the Board? A.—Yes.

Q.—And were in control? A.—Yes.

Q.—And then you paid the cash to the National Trust Company? A.—Yes, as stated in the agreement.

Q.—To the amount stated in the agreement? A.—Yes.

Q.—Was that the National Agency Company cash? A.—Yes.

Q.—Any moneys of the Union Life used for that purpose? A.—No, the National Agency transferred it.

Q.—The moneys, therefore, were transferred by the National Agency without any assistance from the Union Life? A.—Yes.

Q.—At that meeting the re-insurance agreement was submitted and approved? A.—Yes.

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Q.—And Mr. Evans was appointed General Manager and Dr. Millichamp Medical Referee, and the National Agency Company appointed the Managing Agent, and then the next business was to rescind the retainer of the former solicitor and appoint Mr. Symons to be counsel and solicitor for the company? A.—Yes.

Q.—The resolution as to the issuing the cheques by the President or Vice-President and one other director, and a resolution that the banker shall be the Union Bank of Canada? A.—And also to provide that a special General Meeting was to be called of the shareholders of the company to confirm the action of the Board.

Q.—That would be a special meeting of the shareholders of the Toronto Life? A.—Yes.

(Copy of the Minutes, Exhibit 532.)

Q.—Then the re-insurance agreement that was passed at that meeting is dated the 2nd June, 1906, between the Toronto Life Insurance Company called the Principal Company and the Union Life Company hereinafter called the Guarantee Company. (Exhibit 533.) That provision was almost useless about going to the Senior Judge if your Board should disagree, was it not? It was a nice ending to a clause? A.—You think it was surplusage?

Q.—“Upon the written notice of either party hereto”—you have not had to act upon it, have you? A.—No.

Q.—That was an agreement drawn by you preparatory to carrying out this transaction? A.—I suppose.

Q.—I suppose the National Trust Company took no interest in the terms of it at all? A.—No.

Q.—The National Trust Company sold the control in the stock of the Toronto Life to you, turned over the control of the Board of Directors to you, and that was all carried through and accomplished, so that you could put through this agreement? A.—No, I may say at once we would not have had anything to do with the matter if we had not been in a position to put through such an agreement, and I may say further that contemporaneous with the making of that agreement we had circulars prepared and other printed matter for sending out to the policyholders of the Toronto Life immediately, and I suppose there was some 5,000 or 6,000 of those circulars mailed on that night of the 2nd June. That was on a Saturday so that on Monday morn-

ing every policyholder of the Toronto Life might feel satisfied that his policy had been made good and guaranteed by the Union Life.

Q.—But you did not take time to value the assets or compute the reserve before you transferred everything to the Union Life? A.—No, we could not do that.

Q.—The notice the policyholder did not get, it did not reach him before everything was transferred over to your company, and you were in actual possession, and the Toronto Life had no assets at all? A.—As far as that is concerned, the assets of the Toronto Life were held by the Union Life; the policyholders themselves would not be in a position to reject it in any case; they had a second promise to pay, so to speak, instead of relying altogether on one.

Q.—Who was looking after the interests of the minority shareholders of the Toronto Life? A.—Well, no particular individual. I was myself, as acting for the shareholders of the Toronto Life, the National Agency Company being shareholders of that.

Q.—You were acting for the National Agency? A.—Yes, I regarded then that whatever would protect the National Agency would protect the minority shareholders.

Q.—Of the Toronto Life? A.—Yes.

Q.—Notwithstanding the National Agency's chief interest was in the Union Life which was going to take over those policies? A.—That is very true—

Q.—What should a company pay to another company under ordinary conditions for the benefit of taking over its insurance—100 per cent. of the premiums? A.—Well, that depends on the conditions of course, the length of time it has been in business, and whether the premiums were payable, weekly, monthly or yearly as the case might be, and the character of business which that company has been carrying on will largely enter into the matter and so on.

Q.—That is quite true, but here you were expected to get 2½ millions of insurance? A.—Yes.

Q.—Did you compute or ascertain at that time what the average premium was? A.—I could not say as to that.

Q.—We have it estimated as being in 1905—that could be shown of course from the return—\$33 per \$1,000? A.—I could not say whether that is cor-

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rect. My impression is—I am very much inclined to question that, and for this reason; we found it had been the practice of the Toronto Life Insurance Company to take over the York County books and insure the York County shareholders, giving them credit on their policies for whatever the books showed, treating them as cash, and to issue to them policies running from 2 to 3 and even as long as 6 years, both in advance; consequently you might in 1905 collect premiums for several years in advance, and that would go into that year. Of course it would not appear in the following year. The Union Life in assuming the liability under those policies were actually, qua those policies, obtaining no consideration, because they could not hope to collect premiums until after the expiration of several years.

Q.—Have you any statement that shows what that amounted to? A.—No, I could not give that.

Q.—Did you know that before you went into it? A.—We knew there had been some, but not the extent.

Q.—That was not a very important factor when you entered into this arrangement? A.—We estimated—I cannot give you the figures—but we estimated the annual revenue from that business.

Q.—What did you estimate the revenue? \$50,000? A.—Yes, I think we put it weekly at \$1,000.

Q.—That would be \$52,000? A.—Yes.

Q.—Let us take the point of view you had when you entered into the agreement and we can appreciate it from that standpoint any way. You were dealing with a company you thought had a premium income of \$52,000? It has been said in justification of other transactions which have been put through that 100 per cent. of that is a fair price to pay? A.—Very likely, or even more.

Q.—Did you pay that, or did you pay anything for the business? A.—We paid for the stock.

Q.—You did not pay anything for the stock. It was the National Agency paid for the stock. Did the Union Life pay anything for all this volume of business it got? A.—As the Union Life, no.

Q.—Nor as the National Agency. The minority shareholders did not get any of the money you paid for the stock? A.—No.

Q.—The remaining stockholders in the Toronto Life did not see any of your money? A.—No.

Q.—It was the National Trust? A.—Yes.

Q.—There was nothing went into the coffers of the Toronto Life which would be available to the shareholders of the Toronto Life to represent this asset of \$52,000 which they were putting into the Treasury of the Union Life? A.—It was not in the Treasury.

Q.—The Toronto Life had the business and had the income* of \$52,000 a year? A.—There was another element which entered into it. It was a business which was going to pieces, and that was why we required to have our tender accepted.

Q.—No matter what condition the business of the company is in it can re-insure if it has a healthy business? A.—Yes.

Q.—This company had the reserve for its policies and more than the reserve? A.—I would not say more.

Q.—I would like to know? A.—We had regarded the assets as sufficient to provide the reserve.

Q.—And having the reserve in hand the Toronto Life could sell its business by way of re-insuring it? A.—Oh yes.

Q.—And it could sell it for \$50,000 or better, at that time? A.—Possibly.

Q.—It did not get the \$50,000 or a cent of it? A.—The Toronto Life?

Q.—Yes? A.—No.

Q.—By your purchasing the control of the stock of the Toronto Life, you put a transaction through absolutely disregarding the interests of the minority shareholders? A.—No. I would not take that view at all.

Q.—You did not sell the business at the price you could have got for it? A.—One moment, please. It was provided in that agreement that the surplus as well as the cash in hand and in transit, and balance on agents' accounts, which should revert back to the Toronto Life, and the surplus over and above the actual reserve which, on the 2nd June, required to be put up should be restored to the Toronto Life, and that all had in view the interests of the minority shareholders.

Q.—That is to say, the fact that you gave back to the minority shareholders anything is evidence that you took care of them, that you took everything they had out of their pockets

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and then gave them back a part of it? A.—Oh well, whatever the surplus over and above what was actually necessary by law to put up for a reserve would go back to the shareholders.

Q.—You are not taking credit for having taken everything they had and giving back to them— A.—There was only one way to do it; in order to save the Union Life it would have to be done that way, and that is what would have to be done with any company dealing with this company, because it was impossible on a day's notice to ascertain the reserve.

Q.—But if you had not been in the great hurry you must have been to get the transaction put in some shape whereby you were in possession, it would have been easy to figure out the liability by way of reserve and to transfer that? A.—Well, it could not have been done in any other way.

Q.—I daresay you are right; I think you are right on that point, that it could not have been done in any other way? A.—However I took particular care. You speak of the minority shareholders. Let me say this; it was impossible to have called them into conference so as to save their business, and we had to do the best we could in their interests, but we recognized that the minority should be protected and we did protect them, and we have protected them since. May I make a statement?

Q.—Yes? A.—What I say is this: of course an agreement of this kind, under special conditions, is to a large extent experimental. You have to see that the guaranteeing company is protected, and at the same time you have to watch the interests of the minority shareholders; in order that there might be no doubt about it on that same day we had given orders that a meeting of the shareholders should be called to discuss the whole situation. In addition I sent a duplicate of that up to Mr. Hunter, the Inspector of Insurance for the Province, for deposit in the office in the ordinary way. Mr. Hunter asked me to call on him, which I did, and he criticized that agreement, took it up clause by clause, in fact I invited him to do so. I wanted to see what weaknesses there were in it, if possible. He took this exception, and it appears in the letters, that the reserve basis, which was to be put on the basis of a 3 per cent. interest—he thought it should have been at $3\frac{1}{2}$, so as to con-

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form with the Dominion rate, and in reply to that I said we had adopted the 3 per cent, as previously with the Union Life, but we were perfectly willing to conform to the Dominion, and then he said, further that agreement only provided for liabilities of the Toronto Life, arising subsequent to the 2nd June. He said, "the Union Life are undertaking to pay off the liabilities arising subsequent to the making of the agreement." He said, "you do not provide for anything that has arisen before." I pointed out that we had in reserve the bank balance and cash in transitu and so on, which we estimated about \$8,000, \$9,000 or \$10,000, which might be sufficient to meet those liabilities. It turned out afterwards it was not so, but we had thought that would be the case. He said he thought the Union Life, or the National Agency Company, 'as the principal shareholder, principally interested, should guarantee the Toronto Life against these outstanding liabilities. I said as to that that I did not regard the Union Life as being intra vires as a life company to assume the liability of another company. I doubted that. I said "in order to meet your views I will discuss the matter with the National Agency Company Directors" and if they were agreeing we would have a supplementary agreement so as to cover those old liabilities.

Q.—Was that done? A.—Yes.

Q.—Have you the agreement here? A.—Yes.

JUDGE MAC TAVISH: The National Agency Company indemnifying the Toronto Life? A.—Yes, so as to relieve the Toronto Life shareholders. So that as the matter stands to-day the Union Life, quae the liabilities as of the 2nd of June, has relieved the Toronto Life and the National Agency has relieved the Toronto Life as to anything prior to that date.

MR. TILLEY: Here is the agreement of 13th September, 1906, Exhibit 534. Is that the only agreement you have entered into between these companies, except the one of the 2nd June? A.—Yes, I may say the agreement of the 13th September, the original draft was submitted to Mr. Hunter, and the final engrossment is the result of his consideration.

Q.—It recites the agreement of 2nd June for re-insuring, etc., and that the terms thereof have been carried out except as to valuation, and that

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the guaranteeing company desire that provision shall be made for liabilities other than as mentioned in the indenture. That is the agreement between the Toronto Life, the Union Life and the National Agency? A.—Perhaps I should have added that subsequent to the 2nd June the shareholders ratified the resolution.

Q.—Perhaps you will give us a copy of that? A.—Yes.

Q.—What is the force of Clause 3? Does it mean that you take all the balance of the assets? A.—The National Agency Company took all the surplus assets.

Q.—In consideration of what? A.—in guaranteeing the payment of the past liabilities.

Q.—Amounting to how much? A.—Well, that is impossible to estimate at this time.

Q.—As nearly as you can fix it, how much? A.—Well, they may amount to \$30,000 or \$40,000. If you read on further you will find that there is a covenant on the part of the Agency Company to pay a certain amount of money to the minority holders.

Q.—That agreement was made, I suppose, after the litigation that occurred between some of the minority shareholders and your company? A.—Yes, that embodies—

Q.—That is the result of the settlement with the solicitors? A.—Yes, that embodies the settlement made.

Q.—Does that apply to all shareholders? A.—Yes.

Q.—So that the position was that stock for which you paid 80 per cent. of the amount paid in on the 2nd June apparently became worth 60 per cent. as soon as you got your agreement made with them? A.—No, it rather shows we paid too much on the 2nd June.

Q.—But that is the difference between the two prices? A.—Yes, that is cash.

Q.—How many shareholders have accepted that and how many have not? A.—If you will allow me I will read the figures showing just how that stands at this date. The number of shares issued were 3,414 of the par value of \$341,400. I have given you those figures before. It is not necessary to give them again. Out of the 3,414 the National Agency Company has now acquired 3,203. There is at present outstanding only 211. The total amount represented by the shares acquired by the National Agency amounts to \$110,229.

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The total amount outstanding is less than \$5,000. All the shareholders practically have come in.

Q.—If that agreement stands the Toronto Life have no assets left. The reserve goes to the Union Life, and everything over the reserve goes to the National Agency? A.—Oh well, we have to use that surplus in paying off the liabilities.

Q.—You have all the reserve handed over to the Union Life without a dollar being paid for it? A.—That is the way you put it.

Q.—Well, that is the fact? A.—I do not think that is the fact.

Q.—You changed the basis of computing the reserve from 3 per cent. to 3½ per cent.? A.—Yes.

Q.—At the suggestion of the Inspector? A.—Yes.

Q.—And because the requirement you had placed on the Toronto Life was a harder requirement than the Dominion Government was asking you to put up? A.—Yes.

Q.—That is to say the Union Life was taking over its policies without paying anything for them and requiring it to put up a reserve on a higher basis than the Dominion Government by a ½ per cent.? A.—Yes.

Q.—Having changed the rate from 3 to 3½ that left a balance? A.—Yes.

Q.—Which under the other clause went to the National Agency? A.—Yes.

Q.—So that what is taken over by way of changing the interest is just taken over by the National Agency instead of the Union Life? A.—Yes.

Q.—And the National Agency is probably the place you would rather have it? A.—Yes.

Q.—So that that was not a hardship was it, to be compelled to alter the reserve the Union Life was going to get for this, and give what you had stipulated for the Union Life to the National Agency? A.—We had already arranged that in June.

Q.—Arranged what? A.—Arranged the change—before the negotiations with the minority shareholders were proceeded with we had agreed to make it 3½.

Q.—Why was it not changed to 3½ then? A.—Because there were other points in the agreement that were under discussion, and the whole situation had not been threshed out, so to speak, and then when it had been threshed out we put it into

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writing, and submitted it to the Inspector of Insurance.

Q.—Was it intended in the original document you signed you should not incur any liabilities, except those incurred prior to the 2nd June? A.—Yes.

Q.—Was that left outstanding intentionally, too? A.—The prior liabilities?

Q.—Was it intended there should be some arrangement to cover that later? A.—No, we had not thought of it. It was a suggestion that arose from Mr. Hunter entirely, as to assuming prior liabilities. I did not like the idea at all.

Q.—You had been paying them as they came in? A.—Only as the moneys on hand would permit.

Q.—But you had been paying them? A.—Yes.

Q.—He made the suggestion and it was not your fault at all? A.—No.

Q.—Was it the intention that prior creditors should go without their money? A.—No, they could come back on the surplus of the Toronto Life.

Q.—Which would be more than ample to pay them off? A.—Yes.

Q.—You have taken that consideration, which is more than ample, and have undertaken to pay them? A.—Yes.

Q.—How much money has been paid to the National Agency under this? A.—I think it amounted to about \$8,000.

Q.—The \$8,000 the National Agency has got? A.—Yes.

Q.—How much has it paid them? A.—I think considerably more than that. I have not the figures.

Q.—The valuation of the assets has not yet been made? A.—No.

Q.—The valuation of the policies has not been made for the reserve? A.—No.

Q.—When is that to be done? A.—That will be done after the completion of inspection.

Q.—When? A.—That will be done by the 31st December.

Q.—Then will you take the valuation for the purposes of the Government valuation? A.—Yes.

Q.—Will that fix it? A.—Yes, it will have to.

Q.—And that will give you the benefit of all lapses in the meantime? A.—Yes, and make us liable for all revivals.

Q.—It practically matters little from your point of view, because what

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goes out of the Union Life goes into the National Agency? A.—Oh yes, it is a different account.

Q.—It is just a matter of which hand it will be held in? A.—Yes.

Q.—That is your point of view, I suppose? A.—Yes.

Q.—Have you notified all shareholders of the Toronto Life of this agreement of September? A.—Of September 13th?

Q.—Yes? A.—No. All the shareholders of the Toronto Life were made familiar with the terms of the arrangement with the minority shareholders.

Q.—How were they made aware of it? A.—Well, through correspondence, newspaper references, and one thing and another.

Q.—Has any commission been paid with respect to this transaction at any time? A.—I do not think so.

Q.—Are you sure of that? A.—There has been no commission paid in connection with the transaction since the purchase of the original block of stock.

Q.—What commission was paid then? A.—Then there was a commission paid of 5 per cent.

Q.—Of how much? A.—On the amount paid to the National Trust. A. McPhillips.

Q.—Who was he? A.—He was the insurance broker who was acting apparently in the matter.

Q.—He is the proprietor of some insurance magazine? A.—Yes.

Q.—What magazine? A.—I think it is "The Economist."

Q.—No, he is not the proprietor of "The Economist," it is "The Insurance and Financial Review?" A.—Yes, if you will look at the papers you will see his connection with it. The National Trust according to that letter had brought the matter to Mr. McPhillips to assist him in getting in tenders, and McPhillips brought the matter to our attention.

Q.—Stipulating for a commission at the time? A.—Stipulating for a commission.

Q.—Was it Mr. McPhillips' plan of carrying this thing through that was adopted by you? A.—Well, the amount of the tender was a matter with which he had nothing to do.

Q.—I suppose that is the same McPhillips that was concerned in the Home Life and People's Life amalgamation? A.—I think so.

Q.—And that was brought about by getting control of the Board of

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Directors and then putting through the agreement that the re-insuring company wanted? A.—That I do not know anything about.

Q.—You do not know anything about it? A.—I read the report of the newspapers.

Q.—The two transactions seem to be so similar in some respects that I was wondering— A.—I trust you will not couple them together.

Q.—You think yours is better than the other? A.—I prefer that we should stand absolutely by ourselves.

Q.—The situation you have the matter in now for those shareholders who have not come into your plan is that they have an offer of 60 per cent. of their money in cash and if they do not want to take it they have not anything at all? A.—They come back on the surplus.

Q.—The National Agency have the surplus. There is no surplus left? A.—I suppose their remedy will be to apply for a wind up.

Q.—To wind up—there is not an asset? A.—Winding up the Toronto Life.

Q.—Who is going to pay for the winding up of the Toronto Life? A.—I do not know. I think it would be foolish if they did it. I may say this frankly and as justification for that provision, it will be accepted by all of them I have no doubt.

Q.—They have not anything else left open to them? A.—I would not like to say that, because that was a settlement made by themselves.

Q.—No, that was a settlement made, so far as it was agreed to, by those who were complaining, but there were dissentient shareholders who were not represented? A.—No, but they were practically, and I may say actually represented, the whole body, because they were all in the same class.

Q.—Do not say the whole body if they were not represented, and the fact is they were not represented. There were some shareholders not represented? A.—Possibly there were some.

Q.—And there were some whom you thought were represented, who have repudiated the transaction, have they not? A.—I believe there are some.

Q.—Do you know how many? A.—There are very few. Very small. The whole thing does not amount to \$5,000.

Q.—Was any commission or lump sum paid at the time this arrange-

ment was carried through, in connection with getting the consent of the minority shareholders? A.—No.

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ment was carried through, in connection with getting the consent of the minority shareholders? A.—No.

Q.—Nothing paid at all? A.—Nothing paid at all to anybody.

Q.—Did you tell me the amount paid to McPhillips? A.—He was paid 5 per cent. on the amount paid to the National Trust Company.

Q.—How much? A.—About \$2,500.

Q.—Has he been paid anything since? A.—No.

Q.—Has he been demanding anything more? A.—No. I would like to say this regarding the 60 and 80. After a suit was brought by Mr. Brooker, one of the old Toronto workers and one of the shareholders and policyholders, there were several witnesses examined on the Injunction Motion, and amongst others Mr. Home Smith of the National Trust, who gave reasons for what had been done. The solicitors then got together, not including myself. I was a party to the suit. Mr. Watson and Mr. W. R. Smyth and other solicitors, representing various parties, and they endeavoured to reach a figure they thought might be divisible among the minority shareholders on the ascertainment of a surplus, that they got the benefit of Mr. Bradshaw's opinion as a basis, as a valuation and they came to the conclusion that after all what we had originally offered, 80 cents on the dollar, was not unreasonable, because when we had made our tender to the National Trust we never anticipated being in it further or acquiring any more of the shares; but they preferred the cash. We said to them, "If that is the case we would like to put them on a basis that would be satisfactory to them, to discount their debentures, so to speak, so ultimately the 60 per cent. rate for cash was fixed upon and 80 per cent. for debentures.

JUDGE MAC TAVISH: Q.—That is an option. Take 80 cents on debentures or 60 per cent. cash? A.—Yes. I may say the National Agency Company has up to date, according to the figures furnished by our accountant, paid in cash to the shareholders including the National Trust, \$74,699 in cash, and in debentures \$6,216, making a total of \$80,915.

Q.—So there was a pronounced majority in favor of cash? A.—Yes.

MR. TILLEY. Q.—You would issue debentures payable in two years? A.—Yes.

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Q.—You would pay 5 per cent. on the par value of the debentures? A.—Yes. They took them at par, at 80.

Q.—But for 80 per cent. of the claim? A.—Yes. The total value to these shareholders who have not come in is \$4,549.

JUDGE MACTAVISH: Q.—These are the shareholders who have not accepted the offer? A.—Yes. Some have come in and by the end of the year we will have them all in.

MR. TILLEY: Q.—They will have realized the position? A.—Put it that way, if you like.

Q.—You were going to give us the minutes of the shareholders. Let us see how that resolution was worded? A.—Here it is, 20th July.

Q.—“A notice was sent out for the purpose of ratifying the insurance agreement”— A.—The previous meeting was enjoined.

Q.—The persons present were Messrs. McGowan, Evans, Symons, Stacey, Walker, Smith, Winnett, Godwin, Wright, Trowch, Klein, Brooker, Beaver, Buchanan in person, and proxies held by any of the persons named, as appears in the company's official proxy book. Your proxies controlled the meeting? A.—Yes.

Q.—The National Agency? A.—Yes.

Q.—Was it a stormy meeting? A.—Oh no. Read the minutes and you will see. That is when the hatchet had been buried.

JUDGE MACTAVISH: Q.—After the litigation was all over? A.—Yes. A consent had been made, subject to the ratification of the agreement.

MR. TILLEY: Q.—But that is the 3rd July. Had the hatchet been buried then? A.—No, that is not the 3rd.

Q.—I see this is reading the minutes of the 3rd July. This meeting was held the 20th July? A.—Yes.

Q.—“Moved by Mr. Stacey, seconded by Mr. Trowch?” A.—They were kickers, you see.

Q.—(Reads resolution.) Then the meeting adjourned. No meeting of the shareholders of this company has been held to adopt the agreement of September? A.—No.

Q.—This is just a shareholders' book? A.—Yes.

Q.—The Minute Book of the Toronto Life Directors meeting held on the 13th September at 2 o'clock, and present Messrs. Payne, McGowan, Symons, Millichamp, Gilpin, of the directors of the National Agency Company by invitation, and W. H. Carrick,

Dr. Millichamp in the chair. (Reads resolution.) The only object of going through this formula would be to fix on what would go to the Union Life and what would go to the National Agency now. (Exhibit 534.) A.—Well, that would be the effect. As you mentioned just now there were few shareholders with whom settlements had not been made. The matter had to be kept perfectly regular so as to meet their cases when the time came.

Q.—To have a good defence? A.—Yes.

Q.—Did you consider whether a resolution and an agreement whereby the company should go out of business could be passed by the directors? A.—Well, we did consider that that could be done.

Q.—To absolutely cease business? A.—Yes.

Q.—These small shareholders that are left cannot even continue the Toronto Life business if they want to—not under the agreement? A.—Not under the agreement, no. I may say as far as the Insurance Department was concerned they were glad to find the Toronto Life were going out of business.

Q.—Do the directors of the Toronto Life now hold their stock in their own right or for the National Agency? A.—Well, they hold it in their own right. There is no value attached to the stock.

Q.—Was the stock that was transferred to you and the others paid for by the National Agency? A.—Yes.

Q.—And belonged to the National Agency? A.—Well, it is owned absolutely by those directors.

Q.—How could it be owned absolutely? You would have to transfer it to the National Agency when they demanded it?

Q.—Why not? A.—Because it was the consideration for our accepting positions on the Board.

Q.—Do you say any such arrangement was made? A.—Yes.

Q.—You are qualified by some of the National Agency shareholders? A.—Yes.

Q.—How many shares do you hold? A.—10.

Q.—And the others hold 10 each? A.—Yes.

Q.—How many are there? A.—Four.

Q.—And there was another member on the Board? A.—Mr. Byne.

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Q.—He continued all through? A.—Yes.

Q.—He has not been an objector?

A.—He has not been an assistant.

Q.—Has he been an objector? A.

—He has not been quite in accord.

Q.—He has not seen eye to eye?

A.—No.

Q.—Those 40 or 50 shares which are standing in your names are in your names to qualify you as directors? A. Yes.

Q.—And they are the property of the National Agency? A.—I would not say that.

Q.—If the shares are of any value, do they belong to you or the company? A.—They belong to us.

Q.—Individually? A.—Yes. I may say this frankly that if we were ever asked by the Board of the National Agency to transfer the shares to some one else I daresay we would do so.

Q.—It does not occur to you that whatever you may have done may be invalid because none of you are qualified under the by-laws of the Toronto Life? A.—Well, we are qualified.

Q.—You have thought of it? A.—Yes.

Q.—The by-law of the Toronto Life provides that you must hold the stock, the expression is "hold in their own right as sole beneficial owner, at least \$1,000, par value?" A.—And so we do, and we are entirely within that qualification.

Q.—Sole beneficial owners? A.—Yes.

Q.—This is the notice sent out to the policyholders of the Toronto Life. (Exhibit 536.) I would like, if you will give the Commissioners' accountant an opportunity of seeing the entries in the book relating to this matter, connected with this transaction? A.—Certainly.

Q.—Are there any other agreements you have not given me? A.—I have a copy of that correspondence regarding that tender.

MR. TILLEY: I will put in a complete copy of that correspondence. (Exhibit 537.)

Q.—That is all the documents you have, showing the history of this transaction? A.—Yes.

Q.—There have been no other arrangements made between the National Agency and the Union Life or the Toronto Life? A.—Except what is disclosed.

Q.—And no commissions or bonuses except what you have told us? A.—No, none except the isolated case.

Ind. Order of Foresters.

(The Commission then adjourned from Friday, 28th September at 1.45 p.m. till Monday, 1st October, at 10.30 a.m.)

SEVENTY-SEVENTH DAY.

MORNING SESSION.

^ Toronto October 1st, 1906.

INDEPENDENT ORDER OF FORESTERS (Resumed):

MR. SHEPLEY: If your Honors will give me a moment, I wish to raise a point in which Mr. Worrell of the Bank of Montreal and Mr. Masten of the Bank of Nova Scotia are interested here. In connection with some transactions about which we have been inquiring, it has become, we think, necessary to make a very full and complete examination of certain accounts and certain transactions in these two banks. The Banks, very properly, take the attitude that they should be hailed upon their subpoena, and that the propriety of the inquiry should be made manifest. The accounts and transactions in question, no doubt, will suggest themselves to your Honors without my mentioning them, and the counsel representing the two banks are here now, the subpoenas having been duly served. They are not here with the books and I do not want them to bring the books here if it is understood that we have the fullest access to them, just as though they were in Court, produced openly. This would greatly facilitate our inquiry, and facilitate the presentation of the case to the Commission. Those are the considerations that are affecting us and it is quite proper, of course, that your Honors should hear whatever counsel for the Banks have to say.

JUDGE MAC TAVISH: Yes, we will hear Mr. Worrell and Mr. Masten.

MR. WORRELL: Of course this subpoena has only been served on us a short time ago, and we have not had a great deal of time to consider what it refers to; but the position the Bank naturally takes about matters of this kind, is it does not wish, and ought not, in duty bound, to expose the accounts of its customers unless ordered to do so by some competent authority, and that competent authority has had brought before it thoroughly the neces-

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sity of doing so; because, I think, the Commission will fully realize that the Bank has a duty to perform of that kind which ought not to be interfered with unduly. This is simply asking us to produce the papers relating to an account with them by a Mr. Peter Ryan. What relation it has to anything before your Honors I do not know, and my learned friend has not, so far, shown us. I do not know what has taken place, and I do not know of anything that has fallen from him that would show any connection between these accounts and anything before the Commission. Of course, we are altogether in your hands, but we want to have it made perfectly plain that we have to do it, and that there is a good reason for it.

MR. MASTEN: I appear for the Bank of Nova Scotia, who are in a like position, with this exception, that I have not even seen the subpoena, much less had an opportunity of investigating the facts, or how this matter comes before this Commission in any way; and I would like that, in order that if there are any considerations that I ought to submit to you—and I do not want to delay my learned friends—I would like to have an opportunity of seeing where I am at, to use a common expression. I will be glad to go into the matter at the earliest moment, so as not to delay my learned friend or the Commission.

MR. SHEPLEY: I first spoke to the Assistant General Manager of the Bank of Nova Scotia last Thursday, so that there has been ample time if the Bank had thought the matter pressing. However, I am not finding fault with them for not being ready. My learned friends are both right in saying that your Honors should pronounce upon the propriety of the inquiry before they expose the affairs of their customers. I do not know that it is necessary to go all over the ground. I shall be very glad to show to my learned friends the matters that have led up to making this inquiry. They are all familiar to your Honors, and it is not to be expected that my learned friends would know, unless they were told. It is a very long story, but I will be glad to show you that certain monies which we are interested in inquiring about have been placed to certain accounts in these two Banks.

JUDGE MacTAVISH: Yes. Shortly, that is the point; that monies, the destination of which we are investigating, have by the evidence been

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traced to the Banks. While we appreciate the position of the Banks, and their duty not to disclose the accounts of their customers, that is always subject to the right of the fullest information when it is deemed necessary in the public interest to explain or show what has been the disposition of the funds that are being investigated. I think there should be disclosure of the accounts in question, always bearing in mind that anything of a personal or private nature, not pertinent to the inquiry will not be disclosed either to the Commission or to the public.

MR. WORRELL: I would suggest that my learned friend would look into the matter and point out what he wishes produced, and if there was anything which we thought should not under the circumstances be produced, that we would have an opportunity of showing that.

JUDGE MacTAVISH: I think you and Mr. Shepley can settle that.

MR. SHEPLEY: I want you to feel that in the meantime, and subject to a ruling in the matter, that my inquiry is quite unlimited.

MR. WORRELL: Unlimited is a large word. I think that you can look at the accounts so far as that goes, and if there are matters that you wish to bring before the Commission, you can do it, but you must bring nothing before the Commission that we object to without our being heard.

MR. SHEPLEY: Quite so, but you must not bring me before the Commission to settle every detail.

MR. WORRELL: No.

JUDGE MacTAVISH: I think that is quite fair.

MR. SHEPLEY: Is that quite satisfactory, Mr. Masten?

MR. MASTEN: I do not know exactly. I want you or Mr. Tilley to show me the scope of the Commission and we can discuss it.

MR. SHEPLEY: You can take that up with Mr. Tilley and I will proceed with the inquiry as well as I can.

WILLIAM P. BULL, sworn, examined by

MR. SHEPLEY: Q.—You are a barrister and solicitor practising in Toronto? A.—Yes sir.

Q.—And you have some connection with the Okanagan Lumber Company? A.—Yes.

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Q.—In order that you may have your attention directed to the subject matter, I will give you some information which is now before the Commission. A.—Quite so.

Q.—The Okanagan Lumber Company sold to the Kamloops Lumber Company its undertaking for a sum of money; that has been proved and the payment of the money has been proved. Mr. Fowler was the agent of the Kamloops Lumber Company in making the purchase of the lumber company from the Okanagan Lumber Company. Now, having told you so much, I want you to tell me some more matters that we think material. Who were the first incorporators of the Okanagan Lumber Company? A.—Mr. George McCormack, Mr. F. H. Hale, Mr. W. R. Beattie, Mr. James Taylor and myself.

Q.—And these, I think, are the Articles of Association under the British Columbia Statute? A.—It was incorporated under the British Columbia Statute.

Q.—These are the articles? A.—They appear to be.

Q.—The objects of the company are very wide. I suppose you were aware of the incorporation at the time the Articles were— A.—I attended at Victoria in connection with it.

Q.—Who brought you into contact with the matter? Who was, or who were, your associates or associate? A.—Well, Mr. Hale and Mr. McCormack and I went through to British Columbia together on a trip, and Mr. W. R. Beattie was manager of the Arrowhead Lumber Company in a valley near the Okanagan Valley, and Mr. Taylor had been in the lumber business here, and he was in British Columbia also, and we met Mr. Taylor and Mr. Beattie there, and Mr. McCormack had been in touch with the matter before and we met at Enderby, and in Vernon and in the Okanagan Valley we met Mr. Smith, whose partner had just died and left him a lumber business, some limits and a saw mill and planing mill, and the saw mill was at Enderby and the planing mill was at Vernon, and he was anxious to dispose of the saw mill and timber limits and end that business, and confine himself to the planing factory.

Q.—Smith was the owner of the Enderby mill and of the timber limits? A.—That we purchased.

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Q.—Which formed the subject of the purchase by the Okanagan Lumber Company? A.—Quite so.

Q.—Then the Articles of Association bear the date the 24th August, 1903, and there are five persons who associate themselves together, each with one share, or five shares altogether. The proposed capital of the company is \$100,000, divided into 1,000 shares of \$1 each. A.—That is the authorized capital.

Q.—And their powers are very wide and would include the power to purchase and operate such a property as you speak of? A.—Yes.

Q.—Well, then, who was actively engaged for the five of you in the purchase of the property from Mr. Smith? A.—We were all there and purchased from Smith together.

Q.—And what was the purchase money, speaking roundly? A.—\$40,000.

Q.—In what proportions were the five of you interested in the purchase? A.—We took equal fifths.

Q.—That would apparently necessitate your raising \$8,000 each? A.—Quite so.

Q.—Before getting at that you can probably tell me what the ultimate capitalization agreed on was. You did not capitalize for the whole \$100,000? A.—No, that was our authorized capital, and we capitalized at \$50,000.

Q.—And the stock was distributed between you in equal fifths? A.—Yes.

Q.—Each of you had \$10,000 of stock, making the \$50,000? A.—Yes.

Q.—You can tell me probably in a general way how the \$40,000 was financed? The \$40,000, raised and paid, would pay up so much of your \$50,000 of stock. A.—Each one of the five of us was to finance his own share of the money, his own \$10,000, within the time to meet the terms of the agreement with Mr. Smith for the purchase. Mr. McCormack's partner advanced—I think he gave his cheques at Vernon, if I remember correctly, and Mr. Hale in Vancouver, I think, raised his money through his own bank there, and Mr. Taylor gave his cheque when I was there for his share that was due from him at that time, the share that he was due to pay at that time. Mr. Beattie did the same, and I did the same, at least mine was a draft on Toronto. Well, then, later in connection with the purchase I disposed

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of one-half of my interest to Mr. Irwin of Peterborough.

Q.—That is you sold one-half of your interest, which was a fifth, to Irwin? A.—Yes.

Q.—Retaining the other half, which would be a tenth? A.—Yes.

Q.—From that time on you were interested to the extent of one-tenth? A.—I had paid on that half I sold to Irwin, I had paid my first payment of \$500 which he repaid me and which I forwarded west, if I remember.

Q.—You told me you had paid your share by making a draft; that, I suppose, was a means of raising money temporarily? A.—No, I was west, and I instructed the company to make a draft on me here.

Q.—That was a means of raising the money temporarily; eventually your tenth arranged itself so that a thousand dollars was paid on it in cash? A.—Quite so.

Q.—And the balance was represented by a note? A.—Yes.

Q.—Held by the company's bankers at Vernon? A.—At Vernon, B. C.

Q.—Then, just to make the account of that specific, so far as you are able to tell us, you have been good enough to let us have your own ledger. You have opened an account with the Okanagan Lumber Company, and there are two cheques on the debit side of the account, one on the 16th November, 1903, for \$503.15, and the other on the 16th February, 1904, for \$510.65. Those are the two money payments which you made, making up the thousand dollars with some interest? A.—Quite so. The interest was calculated on my cheque.

Q.—Then the balance you never did pay? That was simply in the shape of a note? A.—Yes.

Q.—Those were the two cheques which you have given me? A.—Yes.

Q.—Those cheques will be put in as one Exhibit. (Exhibit 538.) There are some other matters here which do not refer to this matter at all? A.—No, some interest on my note.

Q.—And some matters which should not be under the Okanagan Lumber Company at all, as you have explained to me? A.—No.

Q.—Your bookkeeper has put them there in error? A.—Quite so.

Q.—Who were the officers of this company while it ran its brief career? Did you occupy an office? A.—Yes, I was the President of the company on its inception.

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Q.—Did you remain President throughout? A.—At the first annual meeting, I am not sure whether there was a change made or not. I did not attend the meeting.

Q.—You were not at the meeting? A.—No.

Q.—You left here. Did you take any active part in running the affairs of the company? A.—No, none whatever.

Q.—Who did? Who was the active man? A.—Mr. Hale was manager.

(Memorandum of Association Exhibit 539.)

Q.—I think you received a copy of the address of the Chairman to the Shareholders, the chairman being Mr. Hale, and that was accompanied by what is called a balance sheet, December 31st, 1903? A.—Yes.

Q.—That would be an account of the organization and operations of the company down to the end of the first year? A.—Yes.

Q.—Not for the whole year? A.—No.

Q.—But down to the end of the year? A.—Yes.

Q.—Now this is the report, "Your Directors beg to report that since taking over the business of Mr. Smith." (Reads.) That is signed by Mr. Hale, the Chairman. You yourself had no knowledge of the matter otherwise than as this report and balance sheet show? A.—That is all.

Q.—Then this balance sheet shows the total moneys expended, putting all those moneys in the shape of assets. That is the theory upon which this balance sheet was constructed, and the liabilities and the capital stock, and certain outstanding accounts and over-drafts? A.—Yes.

Q.—Then let us see. The company paid for the real estate, \$26,618.43 according to this, and for timber limits \$12,871; for live stock \$2,344.85, and for movable plant \$338.29. That would be the \$40,000 you have told us about of the original purchase? A.—It was not \$40,000.

Q.—Well it was in that vicinity? A.—Quite so.

Q.—And then the balance would arrange itself if under the expenditures made subsequently to the original purchase, saw-mill improvement and the river and creeks improvement, horse feed, office furniture, bills receivable, saw-logs, and so on? A.—

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Yes. That includes the stock of lumber, does it?

Q.—Yes it does? A.—Yes.

Q.—And the profit on the operations shown in this balance sheet was apparently \$2,500 odd? A.—It appears that way.

MR. SHEPLEY: I put that document in. It is accompanied by an analysis by Mr. Cross, which sustains itself. (Exhibit 540.)

Q.—Were you aware between that and May, 1904, of any other changes in the ownership of the stock? A.—No.

Q.—Did you know that Taylor had sold out his stock to Hale? A.—Yes, I had some knowledge that there had been a change in the position of Taylor's stock.

MR. SHEPLEY: I put in the original transfer dated 19th January, 1904, from Taylor to Hale for the consideration of \$13,000. (Reads transfer Exhibit 541.)

Q.—Now did you know of any other alteration in the ownership of the stock? A.—No, I had no knowledge of any.

Q.—Then what knowledge had you, if any, of the appearance of Mr. Fowler upon the scene? A.—Mr. Fowler was introduced to me in connection with it by either Mr. McCormack or Mr. Irwin, I cannot recall at the moment which.

Q.—Where? Here in Toronto? A.—Here in Toronto.

Q.—Was that before he had entered into the agreement to purchase or after? A.—Well I did not know of any agreement to purchase.

Q.—The next document I find is the resolution and a power of attorney, dated 23rd May, 1904. There must have been a meeting of the Lumber Company held at Enderby on that date. It was moved by Mr. McCormack, seconded by Mr. Hale, and it was resolved that George W. Fowler be given the power of attorney from the Okanagan Lumber Company, Limited for the purpose of receiving the payments for the supposed sale of the property. Then Mr. McCormack, secretary of the lumber company certifies that that is a true and correct copy of the minutes and he certifies also that the meeting was legally called, and that the stock of the said company was all represented at the said meeting either in person or by proxy. Do you know anything about that? A.—Yes. I had given

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from time to time I think at first to Mr. Hale and later to Mr. McCormack, or vice versa, a power of attorney to represent me fully."

Q.—But you were not aware of that meeting or of that resolution? A.—This is my first knowledge of that.

Q.—Then the power of attorney, or two powers of attorney, because they are separate independent documents, are drawn from the Okanagan Lumber Company to Fowler, appointing him attorney for the company, to receive all moneys due or to accrue due under a certain sale of property made through the said Fowler. (Reads power of attorney.) And the other one is similar in its terms. There are separate witnesses and each document is under seal. I put them in as one Exhibit. (Exhibit 542.) Then apparently, if what I told you before I asked you any question is correct, and if Mr. Fowler was the accredited agent of the Kamloops Lumber Company, to buy the property from them, he by this document becomes the accredited agent of the Okanagan lumber company to receive the money. You see that of course? A.—It would appear that way.

Q.—Then on the same date we have this document, which is a copy of the agreement of sale made between the Okanagan Lumber Company and Mr. Fowler. It is between the Okanagan Lumber Company, having its chief place of business at Enderby, and George Fowler of Sussex, in the County of Kings (Reads agreement.) Then the timber limits were set out and the mill and plant and 11 town lots, the books of account, office furniture and bills receivable, and generally all property whether fixed or movable, belonging to the said company, and Fowler agrees in case he takes up the option—(Reads.) Then comes the provisions for the payment, etc. You I believe Mr. Bull were not aware of the price at which under this agreement the property was to pass? A.—Not until I saw it in the evidence the other day.

Q.—You observe that \$175,000 is the price of the mill and the limits and plant, and besides that the logs were to be paid for? A.—That is what you read.

Q.—I identify and put in the cheques of the Union Trust Company paying \$175,000 for the mill and limits. I produce to you now, that you

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can identify them, but so that you may see them, three cheques, one of the 11th August, 1904, for \$20,000, one of the 8th September, 1904, for \$10,000, and one of the 27th September, 1904, for \$12,000, all of them payable to Mr. Fowler. All of them marked on account of payment due on logs, and all of them the cheque of the Kamloops Lumber Company. You see those? A.—Yes.

Q.—That makes \$42,000 that the logs measured out when they came to pay for them apparently? A.—Yes. (Exhibit 543.)

MR. SHEPLEY: These also I should say appear to have gone into the account of Mr. Fowler in the Bank of Nova Scotia. Then I put in, your Honors, as having been found among the papers of the Kamloops Lumber Company, which were delivered to us the other day after the ruling, a certain account made up of the \$175,000 and of the logs as well; \$42,000 for the logs, and corresponding in its details with the cheques which have been put in. That is found among the papers of the Kamloops Lumber Company and I also put here upon the record the accounts in connection with this matter in the books of the Kamloops Lumber Company. The first account is what is called the Kamloops Ledger at page 62. The heading of the account is "Okanagan Lumber Company, purchase account, consideration \$175,000. Then there are cash items corresponding with the cheques I gave your Honors the other day, making up the \$177,855.48." Then on the next page 63, there is "Okanagan Lumber log purchase account, \$6 per thousand Doyle's rule, and the items there correspond with the cheques that I have just put in this morning, \$20,000, \$10,000 and \$12,000, making altogether \$42,000."

Q.—Now what did you hear and from whom did you hear it, about this sale, after it had been carried out? What were you told and who told you and what was done? A.—I was told that a sale had been effected or was being effected, that would give the members of the Okanagan Lumber Company two for one on their investment.

Q.—Two for one on their investments? A.—Yes.

Q.—That is your investments being \$50,000 it ought to give you \$100,000? A.—Yes.

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Q.—Is that your understanding of what the purchase price was? A.—It is my understanding of what the purchase price was, simply two for one on the stock and also whatever liabilities there were.

Q.—Whatever liabilities were being assumed by the purchaser? A.—Yes.

Q.—Who told you that? A.—William Irwin told me that and Mr. Fowler and Mr. McCormack.

Q.—Irwin, Fowler and McCormack all told you that? A.—Yes.

Q.—Were there two occasions, or one occasion, at which Irwin was present, and one at which McCormack was present? A.—Two occasions.

Q.—Irwin once and Fowler and McCormack together? A.—Yes. I do not think I had the three together at any time.

Q.—That is the report made to you from the sale? You are quite clear on that? You were not aware that the purchase price was really \$175,000 plus \$42,000? A.—No. I never knew that.

Q.—But you thought you were getting such a figure as would give you two to one for your investment? A.—Yes.

Q.—How was that arranged with you? A.—Page 388. McCormack and Fowler came to my office and gave me a cheque for my interest.

Q.—That is for your interest, the interest coming to you resulting out of this transfer? A.—Out of the two for one deal.

Q.—I see here the account we referred to a moment ago, the Okanagan Lumber Company's account, at page 388, with this credit entry, "04, July 5th, by cheque, \$6,000." A.—Yes.

Q.—That is the cheque to which you refer? A.—Yes.

Q.—Is that all you ever got? A.—That is all I ever got.

Q.—That is not two to one for your stock, which was \$5,000? A.—Yes, that would be the two for one in this way; that I had only paid \$1,000 on my stock.

Q.—And the note for \$4,000 was still up— A.—It was still due.

Q.—You were not to pay the \$4,000; it was considered dead, and you were to get \$6,000, making altogether \$10,000? A.—Yes.

Q.—That was your understanding of the arrangement? A.—Yes.

Q.—Do you remember on what bank it was and whose cheque? A.—Mr. Fowler gave me his cheque. I think it was on the Bank of Nova Scotia.

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Q.—Is that all you know about the matter, except what you have seen about this investigation? A.—That is all.

Q.—You have always supposed that you got your full share of what was coming out of that sale? A.—It was so stated to me.

MR. LANGMUIR: There was no change in Mr. Bull's holding. He still held one-tenth.

WITNESS: I still held the one-tenth.

MR. SHEPLEY: What became of the Okanagan Lumber Company, do you know, after the sale? Did you shareholders transfer your stock to anybody? A.—My recollection of that at the moment is that Mr. Fowler, by his cheque, took over my interest to himself.

Q.—That is that your cheque passed to him? A.—I think so. That is as I recall it.

Q.—Do you know anything about the books of the Okanagan Lumber Company? A.—No.

Q.—You do not know where they are? A.—The set of books were opened. I think I purchased a set of books here, and they were opened and sent out there.

ROBERT LEVESCONTE sworn, examined by

MR. SHEPLEY: It is said Mr. LeVesconte, that the dockets you left with me on Thursday evening, apparently, upon their face, do not seem to contain all the entries that you have, but the entries are carried to another docket? A.—They contain everything. The docket for this year has the entry under the 20th September, "Served by the sheriff with subpoena and \$4." That is all that is in it.

Q.—Will you let me see the closing entry? A.—In this docket?

Q.—April 9th, 1904, "Interview with Fowler when he wants to see Ryan. Attending 'phone when he is out; later 'phones that he will be in during the afternoon?" A.—Yes.

Q.—And then in red ink, "To Docket 24, folio 33?" A.—That is September 20th, the day I got the subpoena.

Q.—Then I think that you were asked to let us see the docket? A.—Yes.

Q.—Will you do so? A.—Here it is.

Q.—No, the other docket; this docket 24, folio 33? A.—I will let you see it if you wish, I haven't got it here, it is in use.

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(R. LeVesconte, Ex'd.)

Q.—Word was sent you to let us see it and I was instructed— A.—That is the entry in it. There is nothing in this matter at all from the 9th April, 1904, until the day I received the subpoena in September, 1906, and the entry is, "Served by the sheriff with subpoena and \$4 conduct money." Then I have the attendance here the other day before the Commission when you said I would not be wanted for some days. Then I came back again and I have an entry of that and you said you would give me a day's notice. I have that entered and that is all there is.

Q.—You will let us see it, please? A.—Yes, I will let you see it with pleasure.

Q.—Then, Mr. LeVesconte, your docket entries show a good deal of correspondence and that I will have to ask you to let me see? A.—There is correspondence here in connection with other limits. It has nothing to do with this at all.

Q.—I am only speaking about these limits. For instance, if you will turn to the docket entry of 4th January, 1904, you will find that you got a letter from Fowler and you will find that you wrote a letter to somebody whom you describe as "letter to you advising fully; also as to balance sheet received by Ryan this morning?" A.—"Letter from Fowler asking where parties can be found. Wired him and got no reply. Attending telephone T. H. Hamilton." He was a director in a company that Mr. Hamilton was interested in. "Attending Ryan, he says he will be at Kamloops on the 25th."

Q.—He was at Kamloops on the 25th; "Letter to you advising fully." Who is "You?" A.—Fowler.

Q.—"Advising fully as to balance sheet received this morning." I want to see that letter? A.—I have not got it here. If you will let me know what you want I will be very pleased to. You have never indicated in any way. You said you would give me a day's notice when I was wanted and you sent me a telephone message to come immediately. Now, if you will let me know what you want, I will be very pleased to give you what I have got. I have absolutely nothing to keep back. What is the date of that letter?

Q.—It seems to be the 4th January, 1904. Then on the 5th you write another long letter to Fowler

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according to your docket? A.—A letter to Fowler, yes.

Q.—I was not here myself on Friday or Saturday, but I understand that you were told about this and had more than a day's notice; you were told about this during those days, that this would be wanted? A.—No, I have not been told about this at all. The subpoena does not indicate either.

Q.—Then there is another letter to Fowler "advising fully" on the subject apparently? A.—Yes. Have you made a copy of my docket?

Q.—Of your docket entries relating to this matter. That is what you understood I was going to do, so that you could get your dockets back? A.—I understood that these dockets were not to go out of your possession and I find them being perused by other people who had absolutely no right to look at them.

Q.—You had better make any complaints of that kind to me? A.—I am surprised to find that, that is all.

Q.—Who did you find looking at your dockets, except those who were working for me? A.—I had an understanding with you when I left the dockets with you.

Q.—You had an understanding with me that I should have what I wanted out of the dockets and return the original dockets to you, and that was carried out? A.—You said they would not pass out of your hands,—

Q.—And they did not? A.—Because they are a record of my clients business.

Q.—Then you received a note from Mr. Ryan on the 19th January that I shall want? A.—A note? A promissory note?

Q.—I suppose it is a note or short letter? A.—The 19th January, yes.

Q.—Now, on the 26th I find this entry: "Consultation with Ryan and Fowler. Instructions to draw agreement for sale, 15 folios; revising and engrossing in triplicate?" A.—Yes.

Q.—That follows the entry of the 25th which is, "Several consultations with Ryan and Fowler during the day and finally closed about 6.10 at \$170,000, exclusive of Albert Canyon?" A.—Yes, "logs to be taken at \$4.50 per 1,000."

Q.—When you say "consultation with Ryan and Fowler, instructions to draw agreement for sale," that is drawing the agreement for sale at \$170,000, I take it? A.—I suppose so.

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(R. LeVesconte, Ex'd.)

Q.—"Afterwards engrossed two copies with consideration \$225,000. Attending on execution by Fowler at Albany Club and attending on execution by Ryan at his residence. Paid car fare." Then I see that on the 8th February, there is: "Interview with Ryan and Fowler and instructions and preparing assignment Peter Ryan to Hon. George E. Foster," of this timber berth and other berths mentioned. "Attending execution and arranging appointment for 9.30 to-morrow." Does that agree with your recollection as you gave it to us the other day, that you were acting in the matter in preparing the assignment of these berths? A.—I think so. I said I prepared the assignments.

Q.—I think you did? A.—Yes, I prepared the assignments to the Hon. George E. Foster.

Q.—Then on the 20th February a letter from Montgomery enclosing copy of telegram. A.—That has nothing to do with this. That is a suit between Mr. Ryan and Mr. Shields.

Q.—About this transaction? A.—No, it has nothing to do with this transaction beyond the fact that there was some of the purchase money attached. That is all it is. There was a judgment against Shields here, for, I think, something about \$30,000, and the moneys were attached, any interest he might have.

Q.—Then, I want a letter which Mr. Ryan wrote from Winnipeg, to you, dated the 26th February and which you received on the 29th. Also a letter you received on the 8th March from Mr. Ryan. If you will let me see those, Mr. LeVesconte? A.—Do you want copies of those made to put in?

Q.—If you will let me have them I can get the copies made here? A.—Well, I prefer not to give my letter books out. It is a little delicate giving letter books out in that way. I have no objection to making copies and letting them be compared here.

JUDGE MAC TAVISH: We appreciate your delicacy, but the letter books and letters had better be brought here? A.—I will bring the letter book.

Q.—I think so; in a case of this kind. You may be perfectly sure that your private affairs will be respected? A.—If they are—but I did not think so.

MR. SHEPLEY: Then that is all, for the present, Mr. LeVesconte.

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ALFRED A. LEFURGEY sworn, examined by

MR. SHEPLEY: Q.—Where do you live, Mr. Lefurgey? A.—I live in Summerside, Prince Edward Island.

Q.—Your profession? A.—My profession is law and politics, I suppose.

Q.—Your profession is law, and your preference politics, perhaps? A.—I guess so.

Q.—You are in the House of Commons? A.—Yes sir.

Q.—And have been there, how long? A.—Since 1900.

Q.—Then, Mr. Lefurgey, I wish you to tell the Commission the inception of the transaction which afterwards culminated in the Great West Land Company? A.—What do you want, a brief history?

Q.—I want it all. I may tell you that I have read, with much care, the depositions of yourself and some others in some litigation that has been going on, and I want the story as fully as you have told it there? A.—Well, that story, I suppose, as I told it there cannot be told unless I have the papers, and I have no papers except those in that suit.

Q.—Where are they? A.—In the suit; I have no papers.

Q.—Physically where are they? A.—Physically, I suppose, they are in the hands of our attorneys.

Q.—Whose attorneys, yours and Mr. Bennett's? A.—Yes.

Q.—Who are your attorneys? A.—Bicknell and Bain.

Q.—You, of course, can get them, if you wish, can you not? A.—Why, I don't know.

Q.—Will you try? Will you telephone down now and see if you can get them here? A.—Would it be wise to publish the evidence in a suit that is now pending before the Court?

Q.—I am afraid this Commission is also pending. I think if you will be good enough, there is a telephone in the other room, to telephone to your solicitors to bring the papers, if you need them to tell me the story? A.—I think I do not need them.

JUDGE MacTAVISH: Tell us all you can remember first and if you want to refresh your memory you can refer to the papers? A.—The story is simply that while in the West some few years ago with Mr. Pope and Mr. Fowler and Mr. Bennett, we conceived the idea that land speculation in the West was a good thing, that we would take up a number of acres—the number we did not then decide—and form a syndicate and buy a certain num-

ber of acres from the C.P.R. This

we talked over on a trip in the West and when we came East Mr. Pope and Mr. Fowler arranged to get an option on some lands from the C.P.R. which they did and went West and selected these lands. There were a number of us interested. At that time I only knew that Mr. Bennett, Mr. Pope, Mr. Fowler and myself were in the deal, although we presumed that there were some ten to be interested; I did not know who they were at that time. We took up these lands as I said, and we held them for some time and Mr. Pope and Mr. Fowler, acting as our agents, were trying to negotiate a sale of the lands and we eventually were introduced to some people here in Toronto to whom we gave an option on the lands to be taken up at a certain time, and if they were taken up a certain sum of money was to be paid down in cash and they were to assume our contract from the C.P.R. This option, as I say, was given to my knowledge, and the lands were eventually taken up by these people. Who these people were I don't think I had knowledge at that time, when the option was given, that they were any more than an aggregation of individuals. They developed into the New Ontario Town-Site Syndicate. That is what they formed up under. However, it was immaterial to me how they formed up as long as I had the assurance that the money was going to be paid and that the option was going to be taken up and the C.P.R. accepted them as purchasers instead of us. We bought the lands I think for \$3.50 an acre and we sold them at some \$4.50 an acre, which I considered was a very low figure and I was opposed at the time to selling the lands to this company as I knew they would be very much more valuable if we held them ourselves. Now, is there anything else?

Q.—Do you put that in answer to my request to give me a full account? Is that all you have got to tell me? A.—I am giving you a full account. That is pretty full. If you would refresh my memory on any point you want, I would be glad.

Q.—When was it you made this trip to the West? A.—In 1901, or 1902.

Q.—Can you get a little nearer to it than that? A.—September 1902, I think.

Q.—Who were of your party? A.

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I don't know that I could name all at the present time, but the parties who were interested with us in forming up this—

Q.—What was the occasion of the journey? A.—The occasion of the journey was a trip that Mr. Borden was making to the West.

Q.—It was one of the occasions upon which you were exercising your preference for politics? A.—Yes.

Q.—It was a political tour? A.—A political tour, yes.

Q.—With a political object in view; it was Mr. Borden's trip to the West which we know about. Now, by whom was the subject of buying lands introduced, and when? A.—I think it was talked over by Mr. Pope and myself, as far as I remember, casually at first. That was the first conversation we had.

Q.—The first conversation you had was with Mr. Pope? A.—Yes.

Q.—Was anybody else present when that conversation was going on? A.—Not that I recall at the present time.

Q.—Who introduced the subject, yourself or Mr. Pope? A.—That I would not like to say. The subject of lands was one that was very much discussed through the West then, as it is now, I would not like to say.

Q.—You would not like to say who first broached the matter, yourself or Mr. Pope? A.—No.

Q.—But it was one of you so far as you are concerned? A.—Yes.

Q.—Was anything definite arrived at during that first conversation? A.—No, nothing definite, only that we thought it would be a good idea and that we would see what others would like to go in with us.

Q.—What others having regard to those who were participating in the journey? A.—Not necessarily, no.

Q.—You mentioned the number ten? A.—Yes.

Q.—Was that discussed at this first interview? A.—I won't say it was discussed at that first interview. It was discussed on the train. It was understood that we would limit it to ten, that we would take no more than ten into it.

Q.—Perhaps I had better ask you then who came into the matter next to yourself and Pope, so far as you are aware, as a potential member of the syndicate? A.—I think our next conversation was with Mr. Fowler. He was on the trip.

Q.—Then Mr. Fowler, who was also on the trip, was the next person who

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came in. Who brought him in? A.—I think he came in in the natural course of conversation, that we talked it over with him afterwards, and afterwards Mr. Bennett, and those persons signified their willingness to go in and take up land.

Q.—That would be four? A.—Yes.

Q.—Were you four, Mr. Fowler, Mr. Bennett, yourself and Mr. Pope, the only ones who discussed it on this trip? A.—The only four with whom I discussed it.

Q.—The only four who were suggested as being possible members of your syndicate? A.—The only four with whom I discussed it.

Q.—I am now asking you something that is a little different from that. Were they the only four who were expected to become members of the syndicate? A.—The only four who were expected at that time to become members of the syndicate, although mention was made that possibly Mr. Borden might come in. Personally I never talked to Mr. Borden, not on the trip.

Q.—Did you hear him say he would join? A.—No.

Q.—Or that he thought he would join? A.—No, not at that time, no.

Q.—Or during that trip? A.—No.

Q.—Are you quite clear about that? A.—I think I am fairly clear. I don't think I had any personal conversation with Mr. Borden as to it.

Q.—What you have said in your depositions has this in answer to the question "what was the next step." You say, "The next step, we did talk with Fowler and with Bennett." That would be the second interview? A.—Yes, that is what I have given.

Q.—"Just the four of you?" A.—"The four of us. We agreed that we would go ahead and go into a syndicate or partnership and take up lands, if we could get others to go in with us all right; we said we possibly might get ten to go in?" A.—That is substantially it, yes.

Q.—That would be an accurate statement so far as your memory goes? A.—Yes.

Q.—"You have told all that took place the second time?" A.—"We practically decided to go ahead."

Q.—You did reach the decision that you would go ahead? A.—Yes.

Q.—Was your going ahead dependent, or not, upon your getting ten together to go in? A.—Not at all.

Q.—Was the quantity of land you would take dependent on the number that would go in? A.—Not at all.

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Q.—What quantity of land was discussed? A.—We talked of 100,000 acres.

Q.—100,000 acres or more? A.—Or more.

Q.—100,000 acres or more you had in contemplation? A.—That is what we had, 100,000 or more.

Q.—This is what you said about Mr. Borden; it may or may not be important; I want to see whether you say so now.

“On that occasion I cannot say whether we approached Mr. Borden; I believe he indicated a willingness possibly to join us, he said he would very likely join us on that occasion that we interviewed him; I don't know whether it was on that occasion, but during the trip he indicated that he would possibly come in with us.”

Q.—You do not modify that to-day at all? A.—No, I am not clear I told you I would not say personally that I had any conversation with Mr. Borden at all.

Q.—But you had in some way or other? A.—An intimation that he might come in, yes.

Q.—Then was there anything more definite done during this political trip? A.—There was nothing more definite except that it was understood that when we got back East we would see what lands could be had for from the C.P.R.

Q.—And, I think, you also determined that some of you would see to the location and selection of the lands? A.—Yes.

Q.—If the transaction went on? A.—Yes.

Q.—Then how far back had you come on your trip when you advanced the matter another stage? A.—I think we had all come East. I presume they came to Montreal. I stopped off at Davenport, Iowa. I had gone down there from Winnipeg.

Q.—And how long were you in Davenport? A.—I was there some months.

Q.—Do you remember when you returned to this country? A.—I returned some time in December, I should judge.

Q.—Then what you said on the former occasion, and I think you are putting it very much the same way now is, “No other conversation during that trip, because when we got back, when we came back from the trip to the East to Montreal or to the East,

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we won't designate any particular place, we decided that we would interview the C.P.R. people and that some of us, that is the some of us would be Pope, Fowler, Bennett and myself, would go out to the West and locate upon these lands?” A.—Yes.

Q.—You are speaking there rather, I should take it, of the decision that was made to which you afterwards became a party, although you were not taking part, in the discussion, because you were not there? A.—I was not in Montreal, no.

Q.—And there was some correspondence while you were in Davenport? A.—Yes, I received a wire or a letter asking me if I would go west; otherwise they would go themselves, Pope and Fowler would go, for the selection of these lands.

Q.—This is what you said with regard to that in your depositions, “What was the next you heard of the transactions, of the undertaking? A.—The next I heard of the undertaking was, I think a communication to me, either forwarded by telegram—I think it was by telegram—forwarded to me from home that either I was wanted to go out with these people or that Pope and Fowler would go out.” You are not sure whether it was a telegram or letter, from either Pope or Fowler, you have not got a copy of it and you think that was some time in October. Is that your recollection now? A.—Yes.

Q.—Just as it is stated there? A.—Yes.

Q.—Then I think you were not certain whether you replied to that communication at all, but if you did you probably told them that you could not at that time go with them. That is right, is it? A.—Yes.

Q.—Then what was the next you heard about it? The next was the time when you were called to put up money, I think? A.—I guess so.

Q.—Just tell us what form that communication took? A.—Well, I guess I was drawn upon for \$200 towards preliminary expenses.

Q.—When were you drawn upon for \$200 for preliminary expenses, what was your understanding then from what had taken place between you as to the number of people concerned and the gross amount to be raised for preliminary expenses? A.—I believe when I was drawn upon I was still in Davenport and they wired me or wrote me from home if they would

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accept and I wired them to accept the draft. I didn't know any more about it at that time than I have previously told you.

Q.—What proportion did you think that \$200 was of the total amount being raised for preliminary expenses? A.—I didn't know.

Q.—Whether it was one-quarter or one-tenth? A.—No.

Q.—That telegram, I think you have said already, about drawing on you, went to your own home at Summerside? A.—The draft went there at first.

Q.—And the instructions you sent to your bankers were to pay that draft? A.—Yes.

Q.—Then you say in your depositions in answer to question 61. "What was the next thing that happened? A.—Why, I wrote them. I wrote several letters to Fowler or to Pope, I don't know which, Fowler, I presume, because my correspondence was with Fowler, asking him. I knew Pope and Fowler had gone out West to select these lands; they intimated to me they had gone out and I wrote him for information as to what had been done." Have you copies of these letters? A.—I think there are copies of them.

Q.—Then there was a letter from Mr. Fowler which is referred to in your depositions? A.—I think you will find the material parts of the letter are in the depositions.

Q.—This is what is set out in the depositions. We will probably verify this when you are good enough to let us have the correspondence, the papers themselves. "Dear Lefurgey, We have succeeded beyond our wildest hopes. We wired D. M." Then the question was asked "Who is D. M.?" And do you remember what your answer was? A.—Oh yes.

Q.—Who is D. M.? A.—Mr. Mann. Mr. Dan. Mann.

Q.—"And he met us at the train, Toronto, and took us to his office and gave us the route so far as located, of course under cover of the strictest secrecy, to keep it mum except to Borden, Bennett and yourself." A question or two with regard to that. Were you aware, as the result of conversations or correspondence between yourself and Mr. Fowler, of the relationship of Mr. Mann to the matter before that? A.—Mr. Bennett?

Q.—Mr. Mann? A.—Oh no.

Q.—Then this letter was the first reference or intimation to you that

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Mr. Mann had any concern with it at any time? A.—That is the first, yes.

Q.—Then what did you understand was the route that is referred to here? A.—The route, I understood, of course, was the route of the Canadian Northern Railway.

Q.—Does your correspondence prior to this all cover that? A.—No.

Q.—Then you were just reading between the lines, you had no information prior to this with regard to it? A.—No.

Q.—Then what had the route of the Canadian Northern to do with the matter? A.—It had to do with the possible places to select lands from and that is all.

Q.—It was a desirable thing to know where any particular railway was being projected in order that you might select your lands judiciously? A.—Naturally.

Q.—Then had there been any other communication with you in the meantime until you got this letter indicating that Mr. Borden had carried out the intention that you understood he had of going in? A.—None.

Q.—Then did you understand when you got these instructions to keep the matter mum except between the three persons, Borden, Bennett and yourself, that he had come in? A.—I suppose I would form a reasonable presumption, the same as you would that he had.

Q.—I was trying to get what was in your mind at the time, what information you had at the time? A.—I presume that would have been in my mind, I don't know whether it was or not.

Q.—Then that would indicate five people up to the present time: Messrs. Fowler, Pope, Lefurgey, Bennett and Borden. Then the letter proceeds, "We expect to have a wealthy Englishman named Lister, the head of the Canadian Chemical Company and Colonel Pellatt in the combine with us." Is that three people or two, did you understand? A.—Oh, I never knew those people, never knew who Lister was.

Q.—What I am asking is this, this might mean that the Englishman named Lister was the head of the Canadian Chemical Company, or was it mentioning three? A.—I did not know that.

Q.—You have since ascertained, I dare say, that that really meant three people? A.—I did not know Mr.

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Peuchen at that time. I know him since, and I know his name is not Lister.

Q.—Then the head of the Canadian Chemical Company was Mr. Peuchen? A.—Yes.

Q.—As you subsequently ascertained? A.—Yes.

Q.—That would make eight at that time, supposed to be interested. You follow that and assent to it, I suppose? A.—Well, you are making the analysis; I am not.

Q.—I am asking you to assist me, you know, and I want your view and not mine. Mine is of no consequence? A.—Well, I had no official knowledge that these men were in it at all.

Q.—Nothing but what this letter conveyed? A.—Nothing but what that conveyed.

Q.—I am asking you whether you assent to what I have drawn from it, that apparently eight people, the original four plus Mr. Borden and plus the new three were indicated by this letter? A.—I assent that there are a certain number of names mentioned there.

Q.—And named as expected to take interests? A.—If you add them up it would make eight, I suppose.

Q.—And you are assenting to that? A.—Well, I won't dissent from that, no.

Q.—Then the next intimation is, "We have increased the thing to 200,000 acres." That would indicate that there was some limit, would it not, in your discussions up to that time, some limit less than 200,000 acres? A.—Oh, it possibly might or might not. We had decided upon no absolute amount that we would take up. In fact we did not know at that time what options the C.P.R. would give us.

Q.—"On arriving here." Where was this letter written from? A.—Is that a letter from myself?

Q.—No, this is still the letter that commences, "Dear Lefurgey," from Fowler? A.—Well, I suppose that is either written from Toronto or Montreal. I presume so.

Q.—The interview with Mr. Mann is said to have taken place at Toronto and then he says, "On arriving here we interviewed Sir Thomas Shaughnessy?" A.—Oh, that was Montreal, yes.

Q.—"And have every reason to expect more generous treatment as to terms and prices?" A.—"Most generous treatment."

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Q.—That should be "most;" that sounds more likely. "He said we should get the best that was going. We want to arrange for a meeting there when the party returns to Montreal." What does that mean? A.—Well, I presume he means after they had gone West and made the selection.

Q.—This letter seems to be dated the 4th October, 1903? A.—Yes.

Q.—You think he means the selecting party? A.—I presume he means when we got together again in Montreal.

Q.—Those interested in the transaction? A.—Yes.

Q.—When you have a meeting in Montreal then the matter can be taken up further. "Tell Messrs. Borden and Bennett about the meeting. It will be necessary for at least two of us to go this fall to locate as it could not be done in the spring, and that is one of the things that must be arranged at the meeting. Yours very truly, George W. Fowler." Then did you reply to that letter? That was a very encouraging letter, was it not? Don't you assent to that? Pointing out that the prospects were bright? A.—It doesn't make very much difference.

Q.—Then if it does not, perhaps you will assent to that; you were getting the inside track as to selection and you were also getting the inside track as to terms and prices according to the letter. Then apparently there was some communication of the 7th November which is not set out in the depositions. Do you remember what that was? A.—Some conversation?

Q.—No, some communication. I see the examiner asked you this question, "Was there anything between October 4th and November 7th?" A.—Not that I recall.

Q.—Now, then, following that up, what was the next you heard after November 7th? A.—"Well, the next I heard after November 7th, that was the date of the wire, wasn't it?" you ask. "Yes" is the answer, so that there appears to have been a wire on the 7th November. Can you recall from whom that was? A.—Not without reference to that document.

Q.—And you do not remember what that wire was? Perhaps you will let us see it after the midday adjournment? A.—Doesn't it make reference to it there?

Q.—Only that reference. The examiner having it before him probably

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he knew and you knew what it was at the time and he did not think it necessary to spread it upon the notes. Then your depositions go on to say that you wrote several communications to Mr. Fowler asking for further information? A.—Yes.

Q.—That is, no doubt, quite accurate, you were asking for information? A.—I was asking for just what lands I presume had been selected, just what people were in it, and further details.

Q.—And were you getting the information? A.—No, not very satisfactorily.

Q.—Were you getting it at all? You were still in Davenport? A.—Yes. I wasn't getting the information I wanted, no.

Q.—Then I think that after that telegram, which we will learn about later on, you got some letters from Fowler as well as wrote him some letters, and the letters from Fowler I think you are able to produce or were upon your examination? A.—Yes.

Q.—The letter of the 19th December is spread upon the notes, so we will take that from the notes. Mr. Fowler to Mr. Lefurgey. Written from Sussex, where Mr. Fowler lives; addressed to you at the Albany Club. You had not returned from Davenport, you did not return until January or February? A.—Oh yes, I was in Toronto in December.

Q.—You said here, "I came East some time in January, about the 1st January?" A.—Oh well, I had been East for a few days to Toronto and then back again to Davenport.

Q.—You had been at the Albany Club and received this letter there, I suppose? A.—I presume I did.

Q.—"I wrote to you a while ago giving you all the information in the world, but received no response." What letter is he referring to there? One that you have not got? A.—Possibly the one we read before.

Q.—"Of course I did not suppose you were going to spend all the winter in the States. I thought you were patriot enough to stay in Canada and spend any surplus wealth you had to part with in your own country. Everything is all right so far as the land is concerned, but matters are still in the same inchoate condition and so I cannot give further particulars. We are trying to get the land for the price on our application and expect to succeed." That is rather vague, "get the land for the price." Did you know what that

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meant? A.—I don't recall that I knew what that meant now.

Q.—"We are also trying to sell en bloc. Will write again in a short time. We drew on you and also wrote you. I don't know how the matter stands, if the price was not paid. Yours very truly." What does that mean? A.—If the "draft" was not paid, I guess it is.

Q.—That was the draft for the \$200? A.—Yes.

Q.—Then you say that you were not able to find any other communication earlier than one of December other than those you have produced, and that is still so? A.—That is still so, yes.

Q.—Then the next letter is apparently a letter from Fowler of the 1st January, 1903, addressed to you at Summerside. "Your favor of the 28th written from Toronto, duly to hand." That would be, I suppose, the 28th December? A.—Yes.

Q.—Did you keep a copy of that letter of yours? A.—No, I don't think I did, writing up here.

Q.—But you still think you were asking for information? A.—Oh, I know it.

Q.—Then the letter of Mr. Fowler proceeds, "I did not know that my letter to you under date December 19th was so barren of information, nor that I had said anything to wound your too sensitive feelings. I am glad to know, even though you are absent, junketing in the United States, that there was some one at home, looking after any drafts that might be made upon you." Then there is an aspiration which is very human. "Well, old man, I think we have struck a pretty good thing and you people ought to erect a monument to the memory of Pope and myself for what we have done in your behalf." I suppose you are having the marble measured now. "We are now trying to dispose of our holding at an advance that will make us rich for life. We have until June 1st to make our first payment and will take until February to try and sell en bloc. If we fail to do that we will then form a company and place the stock at \$5. We got it at \$3.50." That means \$5 an acre, of course. "There will be a meeting called to confirm any selling arrangements. Until then it is not necessary, Pope and I as the executive, will attend to all the arrangements until it comes to the final closing of the bargain."

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We have got this much further now, that the intention was, having got the land at \$3.50 to sell it at \$5. That was the hope and the expectation so far as Mr. Fowler was concerned? A.—Yes.

Q.—And with that he was keeping you quiet in response to your demands for information. Perhaps he was trying to keep you quiet? A.—I was simply waiting for the meeting to be called.

Q.—You were not corresponding with Mr. Pope but only with Mr. Fowler, I think? A.—Yes.

Q.—Then you got back to Canada, permanently, I hope, and then you were all upon the ground here and could discuss matters between you. Is that right? A.—Well, we were on the ground here.

Q.—And you were prepared to discuss matters and wanting a meeting? A.—I was prepared to attend the meeting to give us all the information.

Q.—And you wanted a meeting called? A.—Yes.

Q.—You still felt, if I have not been mistaken in your attitude, that you were being kept rather in the dark? Is that a fair statement? A.—Well, yes.

Q.—And you felt a corresponding amount of dissatisfaction with the situation? Is that right? A.—I presume so.

Q.—Can you tell me what was the nature of the conversations you would have between you before we come to the next writing there is in the matter. You were all at Ottawa were you not that spring? A.—That spring, yes, we were all at Ottawa.

Q.—You were all at Ottawa, attending the House? A.—Yes.

Q.—And did you see Fowler, Pope and Bennett almost daily? A.—Yes.

Q.—Tell me what was the nature of the discussions that must have been going on between you about this matter and what information were you getting that you had not before? A.—Well, I really got no information that I did not have before.

Q.—Then what was the nature of the discussions that must have been, one would think, constantly taking place between you? A.—I don't know that it was constantly taking place, but I know I had some conversations with them.

Q.—And the nature of them? A.—The nature of them, I presume, was with regard to this property and who were interested.

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Q.—And you could not find out? A.—And other details. I did not find out.

Q.—You were trying to find out and you did not? A.—I was trying to find out.

Q.—Were you pressing for the holding of a meeting of the syndicate? A.—I asked several times why a meeting was not called.

Q.—And what answer was given to you? A.—I could not just recall what answer.

Q.—At all events no meeting was called? A.—No meeting was called.

Q.—It occurs to me to ask you why you yourself did not call a meeting? A.—Well, possibly we were a little lethargic and careless in the matter.

Q.—Was anybody else, any other member of the syndicate, taking your view that it was time information was given? A.—Well, I presume Mr. Bennett probably thought along the same lines.

Q.—Pope and Fowler seem to have been the only ones that knew anything about it, and you and Bennett seem to have been the ones who were trying to find out and could not. Is that an unfair statement of the situation then? A.—Well, I would simply say that Mr. Pope and Mr. Fowler had our confidence and we thought everything was going on smoothly.

Q.—But you were not getting information and you were pressing to get it, you could not even find out who was in the deal besides you four? A.—I did not know, no.

Q.—And you were trying to find out and asking and not being told; is that right? A.—That is a natural deduction.

Q.—It is not an unfair statement of the position? A.—No, sir, all right.

Q.—I want you to say so and I want you to say it is not fair if you think it is not fair? A.—I would just as soon you would draw your own conclusions.

Q.—I want your statement. You know and I do not. I am surmising and asking? A.—Well, I am perfectly willing to answer you the truth of the matter, but to draw deductions from it, I don't think that —

Q.—It is not a mere deduction to say whether you were satisfied with the withholding of information? A.—Oh, I was not satisfied with the information I had received.

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Q.—And did you feel that information you were entitled to was being withheld from you? A.—Well, I felt that a meeting should have been called and the matter placed before those who were interested, and those who were interested should have discussed the situation. That is what I felt.

Q.—You were urging that a meeting should be called, if I have correctly understood you? A.—Well, I was suggesting that we should get together and have the situation put before us as a body.

Q.—Did you, during that period of time, say the early part of the session of 1903, while you were there at Ottawa, get any further information? About Lister, for instance? Did you find whether he had come in, the wealthy Englishman that was expected? A.—I don't recall that I did.

Q.—You did not get any information one way or the other about him, is that right? A.—No, I don't think I did.

Q.—Did you get any further information about the head of the Chemical Company? A.—I don't think that I knew that Peuchen at that time was interested either.

Q.—Any further information about Mr. Borden? A.—I think possibly I knew that Mr. Borden was not in it, at that time.

Q.—You think possibly you were informed that Mr. Borden had not gone on with the matter? A.—Yes.

Q.—Then, so far as I can judge from what you have told me, and if I may draw an inference, I should be inclined to think that you knew of none but the original four? A.—I absolutely knew of none but the original four.

Q.—And you believed that the four of you—if there were only four, or more if there were more—were all equally interested? A.—That was the understanding.

Q.—Now this is something that I would like you to make a little plainer for us than it seems to me. You were asked question 106, "You left it to him," that is to Fowler, "to get anybody that was to be got." That is to get anybody to come into the syndicate that was to be got. Your answer was, "It was left with them." That means Pope and Fowler, I suppose. "They were supposed," you went on, "to have held a meeting in Montreal. 107. Q.—With whom? A. With the parties interested. I presume that Bennett and I presume Mr. Borden was up there but I was not

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up there myself." What meeting are you referring to there? A.—The meeting he referred to in his letter.

Q.—That is the meeting that was held after they had come back through Toronto and had seen Sir Thomas Shaughnessy? A.—Correct.

Q.—Then I will read the next question and answer to you and ask you whether you still assent to what you then said. "108. Did you interfere with him in any way in deciding how many people should be in this thing? A.—No more than it was understood there should not be more than ten in it, and that whoever were in it would come in on equal shares. I had no more interference beyond that knowledge that I went into the syndicate and they drew on me with that understanding and I accepted the draft on that understanding?" A.—That is perfectly correct.

Q.—And you affirm that to-day? A.—I do.

Q.—Then the 15th April marks another stage in the matter, because upon that day you got a telegram from Mr. Pope sent to you at Ottawa, he telegraphing from Sherbrooke. "Must have \$4,000 to-morrow for you for Western deal. Wire me Windsor where to make draft." Do you remember that telegram? A.—Yes.

Q.—Explain to the Commission please about that \$4,000 and what happened with regard to it? A.—Well, the \$4,000—I knew that others were putting up only \$2,000, but I was perfectly willing to put up the \$4,000, as I understood it meant that I was taking a larger interest.

Q.—You have said just now that you knew of others who were not putting up so much? A.—I knew Mr. Bennett was just putting up his \$2,000.

Q.—You knew he was only being asked for \$2,000? A.—Yes.

Q.—That is you knew that from him? A.—Yes, surely.

Q.—And you supposed you were putting up two shares instead of one?

A.—I supposed that is what I was called upon to do, that I was being asked to take another share.

Q.—Did your mind then revert to the old idea of ten shares or can you recall how that was? A.—Well, I can recall this that up to that time I had no actual knowledge, I had no means—no meeting had been called and I had no actual knowledge of how many people were in it. And the

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only way I could get that was by an official meeting.

Q.—You could, of course, have got it if these gentlemen had been candid with you and had told you? A.—

Yes, I suppose they might have told me the names of the people who were in it.

Q.—Then what happened about the draft, was the draft made on you? A.—Oh no, before I could send him a draft for the \$4,000 he wired me for \$2,000.

Q.—For \$2,000 instead of \$4,000? Was that by wire, because in your depositions— A.—I think you will find that it says “by wire.”

Q.—What you said was this: “Well, before I had time to make my arrangements for that money, to accept that draft, Mr. Pope came to Ottawa and stated that I need not pay that \$4,000?” A.—Well, possibly that is it. Whatever I say there is correct.

Q.—You were more likely to be accurate there with the papers before you? A.—Yes.

Q.—“Why? A.—He told me at that time that he thought I might have another share in the deal, but that he was not sure whether he could give it to me. Q.—That would mean that they would increase it? A.—That I would have one-fifth interest in it.

Q.—Did he say one-fifth interest? A.—That would be another share, that would mean one-fifth interest. Q.—

Why do you say that? A.—Well, from what it figures out at the present time I know that.” Now, what have you in mind there? A.—Well, I just explained there that I was not clear in my mind and could have had no definite idea as to how many were in the deal at that time. I presume I had a vague idea that there were ten in it, but I had no definite knowledge.

Q.—You have used the fraction one-fifth, yourself, in your answer? A.—Yes.

Q.—And I was wondering whether you meant that to be a one-fifth interest or two-tenths interest; that is an interest spread between five people or two interests out of ten? A.—Oh well, I have not referred to it there. I had in my mind the two-tenths interest; I suppose I had in my mind the two-tenths interest, but I would not say that, I would not make an affidavit to that.

Q.—But that is the way it strikes you now, from your recollection? A.—Yes.

Q.—Then when Mr. Pope spoke to you about it not being necessary for you to raise the \$4,000 draft, did you make arrangements as to what you should pay instead of the four? A.—I was called upon by wire to put up \$2,000.

Q.—And you put it up, I believe? A.—I did.

Q.—That made \$2,200 that you had put up? A.—Up to that time.

Q.—Were you aware of Mr. Bennett putting up his? A.—I knew he had put it up, I think.

Q.—What Mr. Fowler and Mr. Pope were doing, you did not know at that time, I suppose? You supposed they were doing the same as you were? A.—I presumed they were making good, yes.

Q.—Each of them paying upon the same basis as you and Mr. Bennett were paying? A.—Precisely, exactly.

Q.—And you were still without information as to how many sums of \$2,000 each were going up? A.—I was.

Q.—Do you know what the \$4,000 and afterwards the \$2,000 was required for? A.—I knew it was for the first payment.

Q.—For the first payment to the C.P.R. on the option? A.—Yes.

Q.—Then were you aware of the terms of the option at that time? A.—No.

Q.—You just knew there was an option of \$3.50, you did not know the terms of it? A.—No.

Q.—But you understood the money that was being collected on this call was to make the first payment? A.—Exactly.

Q.—And I understand from you to-day, as well as from the statements made on the former occasion, that you were quite in the dark otherwise than with regard to your own contributions. How the payment was being financed? A.—Entirely so. I presumed they were each putting up the \$2,000.

Q.—What did you presume? A.—That \$2,000 was being put up by each of the members of the syndicate.

Q.—And if you had known the amount of the first payment? A.—I could have figured it back how many were contributing.

Q.—But that you are clear you did not know? A.—Oh no, I did not know that for long afterwards.

Q.—Have you told us all you can remember of the conversation between

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yourself and Mr. Pope when he spoke of his having been under the impression that you would have an additional interest and then finding he could not give it to you? A.—I know that I told him at that time—I asked him why he had drawn on me and he told me that I possibly might have another share, that somebody was dropping out, or something—and I told him that I was perfectly willing to take another share and put up my money for it.

Q.—This is what you said before and I would like you to say whether it is correct. “He told me at that time that he thought I might have another share in the deal,” as accounting for the \$4,000 draft? A.—Yes.

Q.—“But that he was not sure whether he could give it to me?” A.—No. Words to that effect that he was not sure.

Q.—Did he elaborate that at all and say what the thing in prospect was? A.—I understood that somebody was not paying up or did not have the money to go on or did not care to go on.

Q.—And then the rest of the statement, that he was not sure whether he could give you the extra interest, does not that indicate that somebody else was competing? A.—Well, I told him at the time that if anybody dropped out, that the syndicate had a right to that man's interest, to take it up, that he could not hand it over at that stage of the game to anybody else and that if the others were willing I was perfectly willing to take up the odd share.

Q.—What did you understand him to have in his mind when he said he was not sure whether he could give it to you? A.—Well, there might have been several things in my mind. A man might not absolutely have dropped out at the time.

Q.—Or they may have wanted to bring someone else in? A.—They may have wanted to bring someone else in or they may have wanted to take it themselves.

Q.—You, apparently, had your attention directed to that because you said a man dropping out could not transfer his share in your view without the consent of the syndicate? A.—If he dropped out of the syndicate he could not transfer; I shouldn't think so.

Q.—If he dropped out, his dropping out should be for the equal benefit of

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all the members of the syndicate? A.—I should judge so.

Q.—That is what you thought about it and that is the way you expressed yourself. Then I see the actual money that you were called upon to pay was stated in the telegram of the 21st April, which would be six days later than the telegram asking for \$4,000, and it was in this language: “Wire to my credit Eastern Townships Bank, Winnipeg, to-morrow morning \$2,000. R. H. Pope.” Did you write Mr. Pope or ask him in any shape or form for an explanation of how the extra shares you had been talking about, had been arranged? A.—I do not recall any other further conversation just around that time than what we have recited.

Q.—You said on the former occasion, “I am not absolutely sure whether I asked him for an explanation of that telegram either before or after he drew on the second telegram?” A.—Yes, that is true.

Q.—Then, as you have told me, it was not until a long time afterwards that you were aware what the real amount of the first payment was? A.—Yes.

Q.—And what you were being asked to contribute to. Then there came a time at which you have said in your previous examination that you were negotiating for the sale of this land and when you were asked who were negotiating your answer was, “Why, Pope was and Fowler was, I was myself and Peuchen was; we were all negotiating.” Before you came to these negotiations had anything taken place to throw any light on the situation in your mind? A.—Any further information?

Q.—Yes? A.—No, I had no definite information; no statement from them; no meeting called.

Q.—You did not know how many were in it? A.—I did not know absolutely how many were in it.

Q.—When you say you did not know absolutely, had you any information? A.—No, I had no information.

Q.—You had no further information than you have told me of before? A.—No.

Q.—You knew of yourself, Bennett, Fowler and Pope, and you did not know the name of any other person, except Peuchen, you must have known of Peuchen at that time? A.—Well, just about the time these negotiations were going on was the first I knew of Peuchen.

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Q.—That would seem to be a syndicate of five and you would naturally expect that each member would be equally interested with every other member? A.—Well, if there were five in it, it was the intention that we were to be equally interested.

Q.—But whether there were more interested in it or not, you had no information at that time? A.—I had no information.

Q.—Now, what negotiations were going on and with whom? A.—Well, we were all at liberty to carry on negotiations and I know I was corresponding with some people in the United States, friends of mine, as to possible purchasers. I know that Pope and Fowler were conducting negotiations with different people, and I think also Mr. Peuchen.

Q.—Do you know with what people Pope and Fowler were negotiating? A.—I cannot recall that I knew absolutely. I knew that they were negotiating, that is all.

Q.—You understood that they were negotiating with a certain company, did you not? A.—Well, if I say so there, I did. I knew later that they had been negotiating with Oldfield and Gardiner, but whether I knew at that time I won't say.

Q.—I am anxious not to mislead you in any way; I am speaking now of negotiations before the negotiations which finally culminated in the sale to the Foster syndicate? A.—Well, I knew they were negotiating, they must have been negotiating before because they would not negotiate afterwards.

Q.—You knew they were negotiating elsewhere, is what I am trying to get at? A.—Oh yes.

Q.—And I want to find out, if you are able to tell me, in what quarters they were negotiating before they came to negotiating with Mr. Foster or the Foster syndicate? A.—Oh, well, I could not answer that I could say definitely where they were negotiating; they may have been negotiating several places. I think that there is a reference at one time to some Brown that never turned up.

Q.—Did you hear of negotiations with a company that Mr. Scott of Toronto was concerned with? A.—I don't recall it.

Q.—A Manitoba Land Company. You did not hear of that? A.—I don't recall it at the present time.

Q.—You were aware generally, that negotiations elsewhere than where

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they ultimately succeeded were going on? A.—Oh yes, I was sure of it.

(Adjourned to 2 p.m.)

AFTERNOON SESSION.

Resumed at 2 p.m., October 1st, 1906.

R. C. LEVESCONTE, re-called.

MR. SHEPLEY: Q.—You brought the things I was asking you about? A.—The letter from Mr. Montgomery, I could not find any trace of it. I know perfectly well what the matter is. Some of the moneys which were thought to be coming to John Shields in this matter were attached under a judgment and Mr. Montgomery wrote me stating that it would be contended that moneys payable in respect of these limits were not the moneys of Peter Ryan but belonged to the Ashcroft Lumber Company, and that they were not attachable. I do not know what I did with the letter, I may possibly have given it to Mr. Ryan, or I may have given it to the solicitors who attached the moneys. I think your own office was interested in that to some extent. The letter may have gone there.

Q.—Then there were some letters? A.—The 4th, 5th and 6th January, 1904. (Produces letter book containing these letters).

Q.—What has this last sentence here reference to (In letter of 4th January)? A.—“Mr. F. had further interview with Mr. R?”

Q.—Yes? A.—I think it refers to Mr. Foster paying Mr. Ryan.

Q.—You think Mr. F. was Mr. Foster, “Mr. F. had a further interview with Mr. R.,” that is Ryan? A.—Yes.

Q.—And I think was quite satisfied? A.—Yes.

Q.—What were you referring to there? A.—Mr. Ryan had told me Mr. Foster had seen him with reference to the quantity of timber on the berths, as to the berths generally, the timber limits.

Q.—As early as that date there was communication going on between Mr. Foster and Mr. Ryan on the subject? A.—Mr. Ryan told me Mr. Foster had seen him, that was all I knew about it.

Q.—Then the next one—I will have a copy of the letter of the 4th made? A.—Yes.

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Q.—Then the letter of the 5th? (Shows).

Q.—I will have a copy also of the letter of the 5th? A.—Well.

Q.—Then the letter of the 6th? A.—(Shows copy in letter-book).

Q.—I will have a copy of that letter also? A.—Very well.

Q.—What was the next memorandum? A.—Letter from Mr. Ryan of the 29th February, or rather it was received by me on the 29th February, it does not show where it was written from but I think it was written from Winnipeg. (Produces letter).

Q.—This is the letter of the 26th February, 1904? A.—Yes.

Q.—That you will let us have a copy of please? A.—Yes.

Q.—What is the next? A.—Enclosing deed.

Q.—What is this in your memorandum? A.—That I cannot find.

Q.—That is the one that was spoken of in your docket, as a note? A.—What I think that was, as shown by the entry itself, he had called to see me and I was not in, and he just scribbled a note saying he was leaving for the West.

Q.—Then the next is a letter of the 8th March from Ryan? A.—I received it on the 8th, that is enclosing the deed. It was the deed of the mill site; it was sent back to have a notarial certificate attached to it. The deed had to be re-executed.

Q.—What is this? A.—That is a copy of the certificate of execution.

Q.—I do not require those. Where are Fowler's letters to you? A.—I do not think there are any, Mr. Shepley. There was a letter referred to in one of these, and here are all the papers here.

Q.—You have not found a letter from Mr. Fowler yet? A.—These are all the letters in the file.

Q.—Have you gone over them to see if there were any from Mr. Fowler? A.—I went over them hurriedly. This is in reference to a lot of other matters, but it is all the papers in that box.

Q.—I want to know whether in that bundle there are any of Fowler's letters? A.—I cannot say, I went through it hurriedly and I have not found any.

Q.—I would like you to look, if you please? A.—I will look carefully.

Q.—Now then that docket 24, you said you would see that? A.—I have not brought it up, I thought you were satisfied with that, I will tele-

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phone and get it. I think you were satisfied that simply contained the entry of the service of the subpoena. However, I can get it up here if you wish.

Q.—If you would do that this afternoon at your convenience? A.—Very well.

Q.—Or to-morrow morning; you have a meeting? A.—Yes.

Q.—You may go now and I won't detain you. Let me have copies of those Ryan letters I have indicated to you? A.—Those four?

Q.—Yes? A.—Very well.

ALFRED A. LEFURGEY, examination continued:

MR. SHEPLEY: Q.—You have brought the papers? A.—(Produces a bundle of papers). That letter January '02 should be 1903.

Q.—I think these are probably chronologically arranged except the person who was arranging them did not know that was January, 1903, instead of January, 1902? A.—I think I made mention of that in the evidence. Here are some documents showing where I remitted the money.

Q.—Were you receiving notices of directors' meetings of the Great West Land Company as well as shareholders' meetings, you were not a director of the Great West? A.—I believe I am.

Q.—I see some notices here, those were notices sent to you in your capacity as shareholder and director? A.—Yes.

Q.—Did you attend any of the meetings? A.—No. I attended one meeting last year some time, that is the only one I ever attended.

Q.—I think I shall want full copies of all of these letters? A.—Very well.

Q.—Apparently you were asked to return the certificates you held for ten shares in the New Ontario Town & Farm Sites Syndicate with the view of having them re-placed by certificates in the Great West Land Company, did you ever exchange? A.—No. If you will follow out your brief all through you will pick up all these points.

Q.—What other papers have you? A.—These are some of the letters we referred to, that is showing where I remitted through your bank.

Q.—I think your suggestion is probably a good one; we will just follow the matter on from where we were. I think we had got down to this point that you were negotiating as well as

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they for the sale of the property and I think you told me this morning substantially what you said with regard to Peuchen on your examination, that he came in so far as you were aware to your knowledge—that is he came within your knowledge just at the time the negotiations for sale were going on? A.—Yes sir; Mr. Peuchen was I think the man who introduced us to these people to whom we sold.

Q.—What reason have you for saying that? A.—He says so himself.

Q.—And that is your reason for saying so? A.—I know that he was in touch with these people, got in touch with these people and brought it to the notice of Fowler and Pope and myself.

Q.—When you say these people be definite about that, what people have you in mind? A.—I have in mind I presume the people whom you call the Ontario Farm & Town Sites Syndicate, they were not so known to me at that time, they were just an aggregation of individuals, who were prepared to buy the land.

Q.—An aggregation of individuals, who were the components? A.—Now that is more than I can say.

Q.—What names had you before you? A.—I think the first one of the men that I remember was a man named Dale, I don't know—

Q.—Did you ever hear of Mr. Matthew Wilson in connection with it? A.—I do not remember Wilson in connection with it.

Q.—Nor Mr. McGillivray nor Mr. Foster? A.—Mr. Foster was I believe present at one of the meetings we had, whether it was in connection with these Dale people I cannot recall.

Q.—You do not seem to have had, or if you had you have not now a very clear idea of just what was going on? A.—I have not, just who composed this syndicate who were talking of buying. I really have not any clear recollection now.

Q.—Did you understand that you were selling to a syndicate at a profit of \$1 an acre, and that the syndicate was re-selling to anybody else, to the Great West Land Company, or the New Ontario Town Sites Company, at a further advance? A.—No, I understood when the matter was talked over that we were selling at \$4.50 an acre, \$1 advance, that the parties who were buying from us intended to form a company and to increase the sale, put the shares on the

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market at \$5, an acre; we were going to form a company, and I presume invite subscriptions for stock, and that was going to be—

Q.—That would be another 50 cents an acre? A.—Yes, we objected to that at the time, and they said, "Well, here, we will give you your proportion in, we will increase your proportion of stock; that is to say we were taking three-quarters of our profits in cash and we were taking one-quarter of our profits in stock in the new company that was going to be formed, and on account of them increasing it fifty cents an acre we said we should have a proportion of that increase, because we could have taken cash for our other quarter but we preferred to remain in the company; and for that reason they increased our holdings of stock \$5,000.

Q.—50 shares; you have given me just a very clear account of what was being done, where did you get that, were you familiar with the transaction as it was going on, or did somebody make that report to you? A.—No, I think I was present at that meeting where we talked over giving this option, and it was understood at that time that should they increase to \$5 an acre and float a company and float the shares at that ratio that we would get \$5,000 additional. I think I understood that at the time we gave the option.

Q.—You understood that by reason of your taking part personally in the negotiations that were carried on? A.—I was present in Toronto when those negotiations were going on, I attended that meeting.

Q.—It strikes one that you have a very clear idea of what took place when you were there, and you have hardly any idea at all about what was taking place when you were not there, and that is the thing I want to have you explain? A.—That would certainly be the natural consequence, when I was there I would probably know what was going on, and when I was not I suppose—

Q.—At this time when you were dealing with these large interests—of course your \$1 an acre profit was \$200,000? A.—Yes.

Q.—That is a large figure, it would seem to me, when you were dealing with that it seems difficult to understand why you were not insisting on knowing how many people were sharing it, and what proportion of that

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was going to be yours? A.—That is a fact, that may appear to you so.

Q.—I do not say it in any bad sense at all? A.—I perfectly understand, but I supposed I was putting my trust in the situation that was going to be—

Q.—I should have thought it would have been a matter of interest to you to know whether you were getting one-tenth of that profit or as much as one-quarter of it? A.—Yes. Well, I was imagining I was being treated as my proper interest deserved.

Q.—You supposed you would be on the same footing with Pope and Fowler and Bennett? A.—Absolutely.

Q.—The whole four of you? A.—Yes.

Q.—And when Peuchen came in on the same footing with him as well? A.—That is the same idea, we were to be in all alike.

Q.—And you still did not know whether there was one, two, three, four, five or more people sharing the profits? A.—I suppose I had some presumption there were others since I was only getting a certain portion.

Q.—That is when we come to see about the distributing of the moneys and the stock? A.—Yes.

Q.—Did you ever see the option given by the Canadian Pacific Railway Company to Pope and Fowler? A.—Not up to that time.

Q.—It is dated 24th April, 1903, and it witnesseth that in consideration of the sum of \$20,000 now paid the purchasers, who are Pope and Fowler, are given until the 15th May inclusive the option of purchasing these lands? A.—Yes.

Q.—Is that, as you understand it, the \$20,000 towards which you contributed \$2,000? A.—I expect it is.

Q.—I suppose it is not too much to say that you probably did not know of this agreement of the 4th June, 1903, between the then stockholders in the New Ontario Town & Sites Syndicate, Limited, that company and Mr. Foster and Mr. McGillivray and Mr. Wilson? A.—What is that? That this company was composed of these people?

Q.—Yes, and that they were entering into this agreement with the three gentlemen who were taking over the land? A.—I did not know any particular three gentlemen that were taking it over at that time, no.

Q.—Who did you suppose was making the fifty cents an acre? A.—The new company that was going to be formed, I expected the persons who

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were buying it were going to form a company, and they were going to sell this stock at \$5 per acre.

Q.—Who were going to get the extra 50 cents? A.—We were getting \$5,000 of it.

Q.—And who else was getting the rest of it? A.—Why, whoever were interested in the company, whoever were interested in floating the company.

Q.—From whom were they to get it, those interested in floating the company? A.—From you, if you wanted to buy stock.

Q.—From the general public that would come into the company? A.—I presume so.

Q.—If there was any of the general public admitted? A.—I presume so, yes.

Q.—The company itself would have to pay the extra fifty cents? A.—Certainly.

Q.—So that any shareholders other than the promoters would have to pay it? A.—I presume so.

Q.—Then you did clearly understand there were two profits between your purchase and the ultimate purchase by the company to be formed? A.—Well, I presumed that these people who bought it from us were going to make a profit out of it.

Q.—Make a profit out of the company which they were promoting? A.—Out of any company; they owned the property, I suppose they bought it as an aggregation of individuals, and they were going to turn it over to the company.

Q.—Turn it over to the company which they would create, and turn it over at a profit? A.—Yes.

Q.—Of which profit you were to get \$5,000 out of the \$100,000? A.—Yes.

Q.—You did not, I suppose, make any enquiry with regard to the interests to be given to the old owners of stock in the New Ontario Town Sites Company? A.—I did not know the New Ontario Town Sites Company at that time.

Q.—You did not know how they were being dealt with? A.—No.

Q.—We have had that pretty fully from the document, and it does appear the original stockholders who each had one share in the New Ontario Company got one share in the Great West Company—you did not know about that? A.—Not at that time, I do since.

Q.—You found out about that afterwards? A.—Yes.

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Q. How did you suppose this aggregation of individuals that you have told us about was financing the transaction? A.—I did not know.

Q.—You knew of course that they were stepping into your shoes and taking all your obligations with respect to the land? A.—I was perfectly well satisfied if they put up the deposits, and I think they had an option for so many days if they put up the deposit, and the C.P.R. took them over as the purchasers instead of ourselves, that my position was perfectly safe and I was not worrying at all.

Q.—These people had in the first place to re-pay you all you had paid to the C.P.R.? A.—Yes.

Q.—They had to pay all that was due to the C.P.R. besides? A.—Yes.

Q.—And they had to pay you in meal or in malt, in cash or in stock the \$200,000? A.—Yes.

Q.—Of profits that you were making? A.—Yes.

Q.—That was the arrangement as far as they were concerned? A.—Yes.

Q.—You were looking upon them as an aggregation of individuals? A.—That is what I considered them at that time.

Q.—And do you tell me that with all that at stake, with that vast interest at stake, you did not familiarize yourself with the character and standing of the people you were dealing with? A.—Mr. Pope and Mr. Fowler were acting for us, they had full charge of the transfer. The option had been taken from the C. P. R. in their names; they had been conducting the affairs right straight along, and the final protection of our interests was left to them.

Q.—You were exercising vicarious prudence through Mr. Pope and Mr. Fowler? A.—You may say so.

Q.—Is that the way you will put it, that you were relying upon them? A.—I was relying upon them.

Q.—And you perhaps were satisfied that they would not deal with their own interests or with yours unless they were satisfied of the solvency of the people they were dealing with? A.—Correct.

Q.—And their means to finance the transaction? A.—Correct.

Q.—Were you at all curious about that, had you any curiosity to know how this money was being raised? A.—No, I do not recollect that I had at all. I had no hint of it, no intimation of how it was being raised any more than possibly the C. P. R.

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had when they gave us the option on the property, and that we would collect together the money and put it up; I thought we were dealing with men who had the money to put it up.

Q.—Did you know at that time of the Union Trust Company as a financial institution—I don't mean in connection with this, but did you know of the Union Trust Company? A.—I certainly knew the name of the Union Trust Company, yes.

Q.—Did you know it as a financial institution which was dealing generally with large propositions? A.—I did not know very much about it at that time, no.

Q.—Perhaps up to that time you yourself had not been brought in connect to correction in regard to the which you had a personal interest, is that fair? A.—I don't know, I think possibly I was up against large transactions, familiar with them all my life, not just along this line.

Q.—I am speaking of transactions along this line where a gentleman without paying very much money handles enormous profits? A.—I do not think the profits were enormous myself, I do not think they were nearly as large as we could have made.

Q.—We will say profits without using the adjective at all. You say Fowler never mentioned the Union Trust Company to you at all? A.—No, I had no intimation, never knew the Union Trust in any way, shape or form up to this time.

Q.—And do you say the same with regard to the three gentlemen whom I have named to you, Mr. Foster, Mr. McGillivray and Mr. Wilson—did you know anything of them in the transaction? A.—I think Mr. Foster was present at one of the meetings.

Q.—What did you think he was there for? A.—I supposed possibly he was there as one of the syndicate of these men who were going in for the purchase of this property, there was no particular men mentioned.

Q.—As one of the syndicate which was making the fifty cent profit? A.—You can call it making the fifty cent profit, we were not making the fifty cent profit, we were only getting an equivalent to what we would call a cash price.

Q.—I am speaking of the two profits, I am asking you to bear in mind you have already defined the dollar profit that you and your associates

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got, and the fifty cent profit that you anticipated this aggregation of individuals should get? A.—I was satisfied they should make fifty cent profits, so long as they gave me an equivalent.

Q.—So long as your people got the \$5,000 extra of stock? A.—Sure.

Q.—I would like you to reflect for a moment and see if you can recall whether or not you had any intimation with respect to Mr. Wilson and Mr. McGillivray? A.—That is a matter I have never seriously thought about, I am pretty well familiar with the whole situation as regards my interest in the matter, that the men who were there at that time never seriously presented themselves to me. I think there was a Mr. Dale there.

Q.—Mr. Dale had a very small interest? A.—And I think there was a Mr. Curry there.

Q.—That was small too? A.—I think Mr. Foster was there.

Q.—That was not so small? A.—And Mr. McGillivray, I did not know at that time, nor Mr. Matthew Wilson I did not know at that time, and I cannot recall clearly whether they were present, I would not like to put myself on record as saying whether they were or not.

Q.—You were aware of course that Mr. Foster was the General Manager of the Union Trust Company, you had followed his career with sufficient interest to know that? A.—I had only been up here a year or two at that time in the upper Provinces, and I do not know even then whether I associated Mr. Foster with the Union Trust Company. I did not certainly associate him with any company at all when I met him there.

Q.—You did not think of him as in connection with the Union Trust Company at all? A.—No, I do not think so.

Q.—Can you be more certain with regard to that? A.—I do not think you can be very certain with regard to what is passing through your mind five or six years ago.

Q.—I don't know how that may be, but it is more material about you than me? A.—I would not like to say.

Q.—You would not like to say you did not know Mr. Foster was the General Manager of the Union Trust Company? A.—I would put it I would not like to say I did know.

Q.—You would not like to say one way or the other? A.—No.

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(A. A. Lefurgey, Ex'd.)

Q.—Were you sufficiently familiar with the environment, so to speak, of the Union Trust Company to have identified Mr. McGillivray and Mr. Wilson with it if you had heard their names? A.—No.

Q.—And you think though that you would not be sure that you would not even identify Mr. Foster with it? A.—No.

Q.—And your knowledge of the Union Trust Company yourself was only the general knowledge you have spoken of? A.—Just general knowledge, I knew there was an institution called the Union Trust Company, I had never come in contact with it and knew nothing about it.

Q.—Did you identify the Union Trust Company in any way with the Foresters organization? A.—No.

Q.—You had no idea they were not entirely separate and distinct organizations? A.—No, I had no thought about them at that time at all.

Q.—When did the situation between yourself, Bennett and Peuchen upon the one hand and Mr. Fowler and Mr. Pope upon the other become acute? A.—It became acute when—well, it was becoming acute all the time, Mr. Bennett was at me a great many times to get these people together, and he was trying to have a meeting, and see what situation we were in, and we thought the partnership or the syndicate should be called together, and as I told you repeated efforts to call them together failed, and we waited along till—our first cheque came along.

Q.—That marked an epoch? A.—Yes.

Q.—When was that? A.—They sent a cheque about a year after we sold the property, I cannot just tell exactly how long it was after the sale went through.

Q.—Would that be a cheque in respect of the money that you had already advanced, the money that you had put up, or would it be a cheque in respect of the profits you were to make? A.—A cheque in respect of the profits.

Q.—You perhaps had your \$2,000 re-paid at an earlier stage? A.—I had \$6,000 up.

Q.—That is you had to pay in addition to the \$2,200 you mentioned? A.—Yes, there were some other calls we had; \$6,000 I find in it.

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Q.—That is what you had to put up altogether? A.—Yes; that had been paid back at that time.

Q.—How was that arranged, who was the distributor of that money, that is of the refunding of the money you had put up? A.—It always came to me through a cheque from Pope & Fowler.

Q.—Do you remember whose cheque it was, was it their own cheque? A.—It was their own cheque.

Q.—The cheque of the two of them? A.—I rather think it was, I think they both signed the cheque.

Q.—Do you remember what bank? A.—If I remember correctly, I think it was the Bank of Nova Scotia.

Q.—Do you remember what branch it was drawn on? A.—That I do not know.

Q.—What you would suppose would be the people to whom you had sold were making the payment to Pope & Fowler, as your agents and Pope & Fowler then were distributing? A.—Yes.

Q.—That would be the position you would naturally anticipate? A.—Yes.

Q.—A time came when all your original moneys had been re-paid, the \$6,000, and there was a cheque on account of the profits, that was on account of your \$200,000 of profits? A.—Yes.

Q.—In the first place had you got any of the stock, had you any of the stock allotted to you—you see there was to be \$50,000 allotted to you and your associates in the first place and \$5,000 afterwards? A.—I do not know whether that stock was allotted to us before or after this, it was eventually allotted to us.

Q.—At all events a cheque came; can you give me the date of that—you said it was about a year after the sale? A.—I cannot give you the date of that cheque, I don't think. It is approximately eight months to twelve months after the sale of the property went through; it was some time after it was due at any rate.

Q.—Had you at that time become familiar with the conveyancing that had been done, with the terms of the transactions themselves, entitling you to this money, and was this cheque on account of your profits overdue and long overdue? A.—This cheque was some time overdue.

Q.—Some time over due before you got that? A.—Yes.

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(A. A. Lefurgey, Ex'd.)

Q.—Did you get a statement with the cheque? A.—Yes.

Q.—Is that among the papers you have there? A.—I do not believe it is.

Q.—What has become of it? A.—I handed those things over to the safe keeping of Bicknell & Bain; if they got a statement from me it may be around the papers.

MR. BAIN: I have not the statement.—If we have one I will let you have it.

MR. SHEPLEY: You do not find any statement here at all events? A.—Here is the second payment. I have the receipts for that, which I never signed.

Q.—At all events let us get on with what you can tell me without the statement. The cheque was marked an epoch, on account of profits, what was there particularly peculiar about that? A.—The particular part of that was that there was \$20,000 commission charged for doing the business.

Q.—Apparently charged by whom? A.—By Messrs. Pope & Fowler.

Q.—Messrs. Pope & Fowler were charging commission to you at all events? A.—Yes.

Q.—Did that statement show who else was in it? A.—No.

Q.—It just purported to show what is coming to you? A.—That is all.

Q.—Did that statement indicate what your share in the transaction was, whether it was one-quarter or one-fifth or one-tenth or what? A.—I could readily figure up the situation then, I think possibly at that time I was aware that what I was getting was one-tenth interest.

Q.—What was being given you was only a tenth interest? A.—Yes.

Q.—And the tenth interest after deducting the \$20,000 of commission? A.—Yes.

Q.—And that commission was taken not out of the stock but out of the cash? A.—Out of the cash.

Q.—How much profits were shown from which the \$20,000 commission was deducted? A.—It was the first payment, you will get it there. I would roughly say it was \$25,000 was the first distribution.

Q.—You mean that was the gross amount? A.—Yes, that was roughly, \$24,000 and something, there were two payments on profits due before they rendered the statement.

Q.—Were those both taken in the account in the statement? A.—Yes.

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Q.—Those two payments were how much? A.—Each approximately \$25,000 a piece.

Q.—That would be approximately \$50,000 in the whole? A.—Yes.

Q.—\$20,000 was subtracted from that for commission? A.—Yes.

Q.—And the balance was divided into ten parts, of which you were given a cheque for one? A.—I was given a tenth part of that balance, and I also took into account the \$2,000 that they had apparently collected for preliminary expenses. I could see from that that they had apparently called upon me for one-tenth part of preliminary expenses.

Q.—What did you do? A.—At that time I was in touch with these people and I told them I would not stand for it, that they were not entitled to any commission.

Q.—What do you mean by being in touch with them? A.—I could see them personally; I told Mr. Fowler and Mr. Pope that I was not satisfied with the conduct of the company and they as our representatives, and that we should have been called together, that they were entitled to no commission unless we were ready and willing to give it to them, and that I wanted an accounting of the moneys.

Q.—What was the reply to that? A.—I did not get it.

Q.—You did not get the accounting? A.—No.

Q.—What was the reply that was made? A.—I told them that if they did not account for it I would have to take means to force an accounting.

Q.—Did they deny your right to an account? A.—Their actions I suppose speak louder than words; they did not give it to me.

Q.—Then were there other payments on account of profits subsequently? A.—Yes.

Q.—By this time all the profits had been realized? A.—No, the profits were paid over this period, I think there was one other term of profits after that, and then the balance of the profits were taken in one lump in advance, discounted in advance.

Q.—Whenever there has been a division have these gentlemen always made the division, Pope and Fowler? A.—Up to the last payment.

Q.—They have always given you up on the basis of one-tenth interest? A.—Yes.

Q.—How much did you get altogether? A.—I don't think I could just tell you offhand.

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(A. A. Lefurgey, Ex'd.)

Q.—Have you got enough to make you rich for life? A.—Oh no.

Q.—In the extravagant terms of Mr. Fowler's letter? A.—No.

Q.—Are you going to? A.—No, I do not expect I will.

Q.—That depends on how fast you live on it? A.—Yes.

Q.—How much have you received altogether? A.—Between eleven and twelve thousand dollars I presume.

Q.—And has that all been distributed by Pope and Fowler? A.—All but the last payments I think.

Q.—Who distributed the last payments? A.—They came direct from the Great West Land Company.

Q.—How many shares do you understand you now have in the Great West Land Company? A.—I have 55 shares, that is what Mr. Pope and Mr. Fowler handed me over a memorandum to the effect that I was entitled to 55 shares.

Q.—That is one-tenth of the 550 shares? A.—Yes.

Q.—You have brought the suit you speak about, of course, a suit to compel an accounting? A.—In conjunction with Mr. Peuchen and Mr. Bennett I have brought suit.

Q.—You have brought suit against Pope and Fowler? A.—Yes.

Q.—And they are defending the suit? A.—They have put in a defence.

Q.—And it has not yet been tried? A.—No.

Q.—Has it been disposed of otherwise than by trial, has it been settled? A.—No.

Q.—You are still apart? A.—Yes.

Q.—You have perhaps made yourself acquainted in the course of that litigation with the moneys and stock which these gentlemen, Pope and Fowler, have come out with out of the transaction? A.—I have an idea that they are the holders of seven-tenths of the stock in this thing.

Q.—Seven-tenths of the stock that was to come to all of you? A.—Yes.

Q.—And as to the cash they have taken seven-tenths of that? A.—I presume they have taken seven-tenths of that.

Q.—You do not know what dealings have taken place in the Land Company itself since the original arrangement, and what alterations have taken place in the stock holdings there? A.—No.

Q.—That you are not conversant with? A.—Nothing at all with it.

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Q.—You wanted to make a statement with respect to your non-participation in some other transactions which have been discovered here and it is proper that you should be given an opportunity of saying what you want to about them? A.—Well, I simply want to make this statement to put myself right before the public with regard to this transaction which we have been examining now. My relations with it of course, have been absolutely in a strict sense the relations that any business man would carry on; and as regards the timber deal, I just want to say that I have had absolutely nothing to do with that in any way, shape or form; except what I have gained from the papers during the examination that has been going on here.

Q.—I do not think that anything that has taken place in the commission has warranted the impression that you were connected in any way with that? A.—Only in the public press; that the public are liable to misconstrue, from having my name associated with the situation.

MR. SHEPLEY: Unless somebody else wishes to ask Mr. Lefurgey some questions, I think that is all I desire to ask.

MR. HELLMUTH: We have nothing to ask.

MR. SHEPLEY: Your Honors are aware, from the discussion that has taken place elsewhere, of the difficulty I am in with regard to proceeding further at the moment; and I have also told Your Honors in connection with Mr. Nesbitt's attendance here, that I learned last night of his being unable to be here; and while I could go on with some matters, yet I would rather not, because I feel that Mr. Foster is interested in them, and Mr. Nesbitt wants to be here, of course, when anything further with regard to Mr. Foster is taken up.

MR. FOSTER: As far as I am concerned I am quite willing to go into the box now and make a statement with regard to the Great West Land Company transaction from beginning to end.

MR. SHEPLEY: I would not accede to that, in view of what the arrangement was that I made with Mr. Nesbitt.

MR. FOSTER: I wish also to say that I do not think I ought to be

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(A. A. Lefurgey, Ex'd.)

kept any longer under this condition of things, with one side of the case going out to the public, prosecuted by the prosecutor, taken in the rear by others, and the public forming a judgment upon a one-sided view of the case. From the 5th of last month I have been under subpoena. From the time Court opened here I have been in attendance. All my own business has gone, and I wish to be heard just as soon as I can possibly be heard, and I do not want too much cruelty thrown in the way of it.

MR. SHEPLEY: I can only disclaim any intention of being cruel to anybody, and I disclaim the position of prosecutor. I am not a prosecutor.

JUDGE MAC TAVISH: We will do the best we can, Mr. Foster, to see that no injustice is done to any person, but we must proceed in order. Then you are not ready with anything further this afternoon?

MR. SHEPLEY: No. Your Honor quite understands the position about the bank books.

JUDGE MAC TAVISH: I understand the position.

MR. SHEPLEY: I understand there has been no opportunity of looking at the books of the Bank of Nova Scotia as yet, and I understand that Mr. Masten, the counsel for the bank, desires to be hear about that in the morning.

JUDGE MAC TAVISH: Yes, and he is otherwise engaged this afternoon.

MR. SHEPLEY: I hope we are getting towards the end of this enquiry. I ask to adjourn till to-morrow morning.

JUDGE MAC TAVISH: Yes, we will adjourn now till to-morrow morning. I hope Mr. Foster will not consider that it is not absolutely necessary in the interests of the investigation that we should adjourn now. The public, from the statement Mr. Foster has made, will no doubt consider, as they should in every case, that there are two sides to every question.

(The Commission adjourned from Monday, 1st October, at 4 p.m., to Tuesday, 2nd October, at 10.30 a.m.)

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SEVENTY-EIGHTH DAY.
MORNING SESSION.

Toronto, October 2nd, 1906.

INDEPENDENT ORDER OF FORESTERS (continued):

MR. SHEPLEY: We are now prepared to discuss the question of the relevance of the inquiry into the books of the Bank of Nova Scotia. My learned friend, Mr. Masten, is here, and I dare say will present the matter from his standpoint.

MR. MASTEN: The position, your Honors, is this; I understand that the subpoena has been served upon the Assistant Manager of the Bank of Nova Scotia, asking him to "produce all papers, books, letters and documents, whether originals or copies, in your possession or control, or in the possession or control of the Bank of Nova Scotia, containing any entries or memoranda in any way relating to any account or accounts of George W. Fowler, M.P., either individually or in trust, or alone or with others, including all correspondence, powers of attorney, cheques, drafts, deposit slips and other papers in any way connected therewith." Mr. Fowler is not in town, and we are not able to communicate with him so as to know whether there is any arrangement possible by which he would concur in this and under these circumstances the Bank of Nova Scotia have no alternative but to proceed in their submission to your Honors upon what they are advised is the strict legal position of the matter. Now, in looking at the Order in Council under which your Honors jurisdiction is derived to conduct this inquiry, I find the only clause which appears to have any bearing—if there are others no doubt my learned friend will point them out—the only clause in the Order in Council which gives them power in this direction at all is clause B, "to inquire into the operations of the various companies chartered by the Parliament of Canada or by Province licensed." (Reads clause.) Now, the investigation being into the transacting of life insurance in Canada and the investment of funds, I understand the position to be that your Honors are now engaged in the investigation of the investment of the funds of the Independent Order of Foresters and other allied questions. Of course other allied questions, under the well known rule of interpretation, apply, ejusdem generis, to the investment of funds. I speak sub-

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(Statement by Mr. Masten.)

ject to correction in regard to the facts, because not having been concerned in any way in this inquiry, my knowledge is derived from the casual reading which one gets from the no doubt very accurate reports which appear from time to time in the Press. I have not had the opportunity of reading the formal report made by the stenographers. It has transpired before your Honors that the Union Trust Company was in a measure and in some sense a subsidiary branch of the Order of Foresters, or has been so treated, for the investment of its funds, and the affairs of the Union Trust Company have been investigated to some degree and to some extent, so far as they appeared to your Honors to affect the funds of the Foresters. Now then after that I understand there is a third distinct and separate entity, the Foresters being one corporation, the Union Trust Company, a second or subsidiary corporation, that there is a third corporation, supposed to be known by the name of the Kamloops company, just what its relation to the Union Trust Company may have been I am not fully advised, and have not had an opportunity of knowing, but in any case, speaking generally and broadly, in some measure and to some extent, the Kamloops Company may have received financial assistance from the Union Trust Company. It may be a debtor to the Union Trust Company, or may have been at one time a debtor. Then there is an independent company, as I understand it, known as the Okanagan Company, formed not with the moneys of the Foresters, not with the money of the Union Trust Company, not with the money of the Kamloops Company, but formed with the money of independent incorporators who incorporated that company. They bought certain limits. Having bought those limits they subsequently sold them at a price to the Kamloops Company, and the Okanagan Company then authorised Mr. Fowler to receive the purchase price of those limits, and it is suggested that having received the purchase price it was deposited in the Bank of Nova Scotia, and I understand the suggestion is that it did not all go to the members of the Okanagan Company. Now, of course, if the members of the Okanagan Company were to sue Fowler, or the Okanagan Company were to sue him, alleging that he had not accounted as

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their agent for all the money he had received, the books of the Bank are naturally opened to such an inquiry and being subpoenaed they would be bound to produce them in the ordinary Courts; but how the inquiry which your Honors are conducting into the affairs of the Independent Order of Foresters touches the question of whether Mr. Fowler had fully accounted to his associates in the Okanagan Company for all monies received by him in connection with the sale of limits to the Kamloops Company, is something that is altogether beyond the mark, it seems to me. This has nothing to do with the affairs of the Independent Order of Foresters. Supposing Mr. Fowler has accounted for everything, then there is nothing to be found. Supposing he has not accounted for everything, what is that to the Foresters, under any possible circumstances, unless it be a matter of curiosity to the public, or it is desired to know everything about all affairs, even remotely arising out of the affairs of any of these concerns. It surely has nothing to do with the substance of the matter. Could the Foresters claim any money from the Okanagan Company? Could they claim any money from Fowler? Surely there is no privity between them. There is no right that they could possibly assert. Their contentions cannot possibly be affected by any of these transactions, and therefore it has seemed to me that the only position which the Bank of Nova Scotia can properly take is that this matter, being outside the inquiry, that these books are not open to inspection, and I respectfully submit to the Commission that position, that these books are therefore not open to be called for by them, are not open to inquiry upon this investigation. I do not know that by elaborating the matter I could possibly say anything further. It comes down to the neat point that the inquiry is confined, and your Honors' jurisdiction to inquire is confined to the investigation of the affairs of the Independent Order of Foresters. This is not an affair of the Independent Order of Foresters, directly or indirectly, has no bearing or effect upon that corporation, is a matter entirely *res inter alios acta*, and something therefore that is not before this inquiry, and in respect of which there is no jurisdiction to look into these books. Your Honors will

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(Statement by Mr. Masten.)

understand, of course, that in taking this position, the attitude of the Bank is simply to justify itself with its customer Mr. Fowler, and that there is no disrespect to this inquiry nor any desire in any way to prevent any investigation of any proper matter, but solely that that is the position they are advised upon the best consideration that counsel have been able to give them—that that is the power of the Commission, and that their duty is to take the position I am now seeking to take for them.

MR. SHEPLEY: I do not know that the case which we have heard so far has ever been presented better than my learned friend has presented it. My learned friend maintains that beautiful theory of separate entities in its integrity, of course; he is bound to, in order to make the point. The truth of the matter is that when you get below the shell that covers it all, that money belonging to the Independent Order of Foresters has been entrusted to the hands of a creature of the Foresters, substantially a creature of the Foresters, the Union Trust Company, and by the Union Trust Company those funds have found their way into the various channels; amongst various things they have found their way into the hands of the Kamloops Lumber Company; amongst other things they have found their way into the hands of the Okanagan Lumber Company; amongst other channels they have found their way into the hands of Mr. Fowler, and amongst other channels, having gone into Mr. Fowler's hands, they have gone into the hands of the Bank of Nova Scotia. It was laid down early in this inquiry that every copper of money belonging to the Foresters would be followed, so far as it could be followed, no matter into what channel it went, for the purpose, your Honors declared, that we might find out whether any of it had been wasted on the way. That inquiry is an inquiry which we are still persisting in. That inquiry is germane to the subject of the documents in the hands of the Bank of Nova Scotia, and unless we abandon the principle which underlies the inquiry and has been underlying it from the beginning, we must proceed with the examination of these books.

JUDGE MACTAVISH: We repeat the ruling we have made on several previous occasions, not because we have so ruled before, but because we

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still think we are right. The books and documents in the possession of those banks must be placed at the service of the Commission. If necessary we are prepared to make a direction in a formal way to give effect to this decision.

JOHN M. McWHINNEY: Sworn,
Examined by Mr. SHEPLEY:

Q.—You are an official of the Union Trust Company? A.—I am.

Q.—What position do you occupy? A.—I am at present acting as Manager.

Q.—How long have you been with the Union Trust Company? A.—Since 1902.

Q.—And you are familiar with its books of record and documents? A.—To some extent.

Q.—And you have the custody, the physical custody of them? A.—I have.

Q.—You have been served with a subpoena? A.—Yes.

Q.—The first matter mentioned in the subpoena is the investment ledger of the Union Trust Company? A.—Yes.

Q.—You know that book? A.—I have it here.

Q.—And you produce it upon your subpoena? A.—Yes.

Q.—Then the next matter mentioned is a map or plan showing the lands in which the Union Trust Company either is or has been interested in Manitoba or the North West Territories? A.—Yes.

Q.—You have brought that map? A.—Yes.

Q.—You produce that also? A.—Yes.

Q.—Then are there any papers, agreements, vouchers or correspondence relating to the sum of \$835,000 odd, which Mr. Stevenson referred to the other day as having been put into lands in the North West Territories? A.—There are some.

Q.—Are you in custody of those? A.—I am.

Q.—Will you produce those? A.—I will.

Q.—Then there is an account of share and bond investments? Are you aware of that account? A.—Well, I hardly know what you mean.

Q.—A single account, the account being the account of share and bond investment. Do you recognize it by that name? A.—I do not.

Q.—You have been told by Mr. Cross what it is I am referring to? A.—Yes, I understand you want a statement of the account—

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(J. M. McWhinney, Ex'd.)

Q.—A list of all those investments? A.—Yes.

Q.—There are, of course, papers in connection with these investments, or in connection with some of them? A.—I think there are.

Q.—And those you are also in custody of? A.—Yes.

Q.—And you will produce those to us also? A.—Yes.

Q.—Then will you be good enough to take a memorandum of certain shareholders' minutes that I would like you to give us access to and let us have a copy. November 1st, 1902—these are shareholders' minutes? A.—Yes.

Q.—I want a copy of the minute relating to the increase in the Standard Bank loan. Give me the minute as to the agreement with shareholders of the same date, and of the same date give me the minute with respect to the remuneration of directors. That is all the 1st November, 1902. Then on the 3rd November give me the minute relating to the approving of the agreement with the shareholders. Then turn to your minutes of the 23rd February, 1903, and give me the minute as to the remuneration of directors there, and the minute with regard to the agreement with shareholders, and the minute with regard to the further loan from the Traders Bank. Then take the minutes of the 3rd January, 1904. Give me the minute relating to the Inspection Committee, and the minute relating to the increase in the number of directors. On the 23rd February of the same year, 1904, the minute relating to the call of 50 per cent. capital North West Lands and the by-law in the same minute relating to that and the minute of the same date relating to Mr. Matthew Wilson. Then turn to the 28th February, 1905, give me the by-law and the minute with regard to delegating powers to the Executive Committee of the 13th December, 1905, give me the minute relating to the agreement with the Great West Land Company. Then there was a special meeting 26th December, 1905, and there was a by-law, No. 34, with respect to the increase of the capital stock. I want that and any other reference in the Minutes to that subject. You will let me have all those? A.—I will, as soon as possible.

Q.—And if you are a little pressed for time, you will perhaps let us make

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the copies ourselves? A.—I think I can let you have them.

Q.—Can you give me them before 6 o'clock to-night? A.—Oh, I will try.

MR. SHEPLEY: Now, your Honors, I think it proper I should personally attend with the accountant at the office of the Bank in the course of looking at the books that we have been discussing, and I have to request your Honors now to adjourn till two o'clock by which time I hope to be ready to proceed. Your Honors were aware of the effort we made yesterday so that we might have avoided this, although we took a great deal of time over it we were not able to arrange it.

JUDGE MAC TAVISH: We will adjourn now till two o'clock.

(The Commission then adjourned till 2 p.m.)

The Commission resumed at 2 p.m. October 2nd, 1906.

MR. SHEPLEY: I desire to say to the Board that I think it will be much more useful and in the interests of the inquiry that the Board should permit me to spend the afternoon at the bank rather than spending it here. I have been busy there since the Board rose this morning and have still more work to do, but by the time the Board meets to-morrow, if your Honors are so good as to adjourn till then, I shall be ready to go on to completion of that subject.

JUDGE MAC TAVISH: Yes.

MR. HELLMUTH: I have not any objection whatever to offer to that. My learned friend, of course, knows his own work better than anybody else, and if the further investigation there will save time eventually I would not suggest any other course.

JUDGE MAC TAVISH: I have no doubt it will. We will adjourn until to-morrow morning at half past ten.

The Commission accordingly adjourned at 2.05 Tuesday, October 2nd, to 10.30 a. m. Wednesday, October 3rd, 1906.

SEVENTY-NINTH DAY.

MORNING SESSION.

Toronto, Wednesday, Oct. 3, 1906.

INDEPENDENT ORDER OF FORESTERS (Continued):

MR. RYAN: May it please your Honors. I have been waiting here

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(Peter Ryan. Ex'd.)

day after day at the request of Mr. Shepley, until yesterday, expecting that I would be called upon to give a statement of my connection with this affair, and as I purpose leaving the city and the Province for a little while to-morrow, I would crave your indulgence to be permitted to make a statement of my connection with this affair from beginning to end. I will try to be as brief as possible; and in justice to me, since my name has been handed about, letters to Ryan, and letters about Ryan, etc., I desire just to clear the atmosphere and show wherein I have been connected with the affair, and be judged by the people who listen to me and hear what I have to say. I would thank you very much if you would permit me.

MR. SHEPLEY: How long would it take to make the statement?

MR. RYAN: I would be very brief.

MR. SHEPLEY: What do you mean by that?

MR. RYAN: Ten minutes: I won't occupy ten minutes.

JUDGE MAC TAVISH: I thought you said that you had stated all you knew about it when you gave your evidence before?

MR. RYAN: I want to lead up to where I was and give my statement, if you will permit me.

MR. SHEPLEY: My suggestion is that if Mr. Ryan will be as brief as he says, ten minutes, and will address the Board from the witness box, that he be permitted to do so.

JUDGE MAC TAVISH: Yes, in the way of evidence.

PETER RYAN, recalled, said:—

In the first place, permit me to thank your Honors for the privilege you have accorded me of setting myself right, if I possibly can, in the estimation of my fellow citizens and this Commission. My first connection with this business was, a few years ago I was induced to put in \$15,000 in an industrial enterprise in British Columbia, which was said to be sufficient. Like many others, it led on from \$15,000 until I was out somewhere in the neighborhood of \$200,000. In addition to that another shareholder invested \$50,000, and we borrowed an additional \$45,000 from the Bank of Hamilton, in all representing a very respectable sum. I was not

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receiving any interest and certainly I was receiving no principal. I felt that my capital there was being imperilled, and I expressed a wish to have this property sold, and made that generally known. Mr. LeVesconte secured for me a customer, and I was glad to get a customer, although I was selling the property remarkably cheap. I do plead that I did not give due consideration, perhaps, to the importance of changing the consideration from \$170,000 to \$225,000. I never stipulated that I should receive a portion of that; it was never understood so—and it is not understood so now. I was doing business with Mr. Fowler, and Mr. Fowler asked me to make a transfer to the Union Trust Company, which I did. I knew not of their arrangements. I was not one of their high priests or Levites. I was not even a worshipper in their Temple. I knew nothing about their business. I made the transfer, as cases are done in hundreds of instances, never giving the thing due consideration, and looking upon it as an ordinary occurrence. I have no apology to offer for it. I admit the ethics were not exalted, but men in business do not always consider these things, and when you consider that I was very heavily involved, and that I was very anxious for the sake of my creditors and all concerned to get rid of the property—however valuable it was to large capitalists and those who were on the ground, it presented no attraction to me. The arrangements were made and the arrangements were carried out in good faith so far as I was concerned, but instead of getting a monument erected to me by my colleagues for the sale, they sued me in British Columbia for an accounting at the rate of \$225,000, which, it is very true, I received, but of which a portion had been handed back to Mr. Fowler as we arranged, and my associates in British Columbia were allowed and paid—or rather the account was taken, at the full amount of money I received. I kept none of the price of the land, as the Scripture says, back from them. They knew all. I gave them a fair account, a fair deal and a fair divide. There was no attempt on my part whatever to misrepresent the price at which I sold this property, for do not forget, Messrs. Commissioners, that I was doing business, not alone for myself as a shareholder in the company, but I was doing business for four other beneficiaries, and I kept nothing back. I

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(Chesley Schurman, Ex'd.)

regret very much that my name has been bandied up and down about letters to Ryan, this, that and the other; I care nothing what letters are produced. The sum and substance of my defence is that I made out a transfer at \$225,000 instead of \$175,000, which is done time and again without men considering that they are doing anything wrong. I have nothing to screen myself. There is no evidence that can be produced that I care about, and in consequence of the statements having been made and the shaking in my face by Mr. Shepley—who, I am sure, did it unwittingly—as though there was something kept back by me with regard to my testimony in British Columbia which I made in open Court under oath. The testimony in British Columbia was the truth, just as the testimony I am giving now is the truth. My testimony was not contradicted in British Columbia. No man dared go into the box, although they had a room full of their whelps ready to take and swear against me, if they could, but they had no proof against me, and I have simply to say this, that I have given this Commission the truth of the statement, and I do not think it is nice to shake in my face in this city where I live, and where I occupy a public position, just as though there was something in my testimony that had better, for my own character, not be made public. If Mr. Shepley has anything in my testimony that does not reflect to my credit, or which he thinks is discreditable in my evidence, I will be glad if he will tell me. I know he is an honorable gentleman, distinguished in private life as well as in public life, and of very high character, and I am sure he would not wittingly do me an injustice, and if he has anything in my British Columbia testimony this is the place to produce it, where I can hear and where I can speak for myself.

MR. SHEPLEY: Is that all? A.—That is all. I have not occupied the time—I just took six minutes.

CHESLEY SCHURMAN: Sworn.
Examined by

MR. SHEPLEY: Q.—You are an official of the Bank of Nova Scotia?
A.—Yes, sir.

Q.—What is your position there?
A.—Assistant manager.

Q.—In the Toronto branch? A.—Yes.

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Q.—You have in your branch an account for Mr. G. W. Fowler? A.—Yes.

Q.—And this, I think, you are able to tell us is an exact copy of the account, save that the daily balances are only brought down with certain credits? A.—Yes.

Q.—In the ledger itself the daily balances are brought down every day? A.—Yes.

Q.—The account seems to have opened on the 4th of November, 1903, with a deposit of \$15,000. You are perhaps familiar enough with the account to remember that? A.—Yes.

Q.—And by the 9th of February, 1904, that deposit had all been chequed out except \$17.30? A. I believe that is correct. I filled in the balances.

Q.—By the 9th February it was all gone except a balance of \$17.30? A.—Yes.

Q.—And on that day, the 9th of February, a deposit of \$12,000 was made? A.—Yes.

Q.—I want to see whether you are able to identify a cheque I have here with that deposit. I have here a cheque of Peter Ryan's of the 9th February, 1904, on the Bank of Montreal, payable to George W. Fowler or order for \$12,000. Can you tell from the endorsement whether that cheque constituted the deposit we have just referred to? A.—I presume it does. It bears our endorsement stamp of that date.

Q.—Is there any doubt about it? A.—I do not think there is.

Q.—It bears your endorsement stamp of that date and is endorsed by Mr. Fowler? A.—Yes.

MR. SHEPLEY: Your Honors of course are bearing in mind the significance of that cheque.

Q.—Well then, Mr. Schurman, that money, with the exception of \$431.70, which included the old balance of \$17.30, was all chequed out before the date of the next deposit, which was on the 21st March? A.—Yes.

Q.—That is right? A.—Yes.

Q.—Now, I would ask you to follow me through these cheques on the 9th February; cheque No. 305,168 was drawn for \$350? A.—Yes.

Q.—That was charged up against the account? A.—Yes.

Q.—On the same day a cheque, No. 305,166, was drawn for \$614.60? A.—Yes.

Q.—Then after that for some little distance appear certain names on the debit side of the account. What do those mean? A.—Well, I presume they mean the parties to whom the

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cheques were payable. In some cases there are no numbers on the cheque and we put in the name.

Q.—You put in the name instead of the number? A.—Yes.

Q.—That is not common in the account, I think? A.—No.

Q.—Just at that point let me ask you whether or not it is possible to tell from your records whether these cheques have come to you through the clearing house where you have no record of the payees? A.—Well, by reference to our clearing slips we could find that out—the amounts that correspond.

Q.—Then by following those into the other bank which acquired them, the identity of the cheque may be discovered? A.—Yes, another bank can locate them.

Q.—The other bank, if it preserved its clearing slips, will have just the same material you have? A.—Yes. Well they would only have copies. Of course the original slip comes to us.

Q.—And I think you have given me the results of your clearing slips in respect of this account? A.—Yes.

Q.—So that that may be followed into the other bank that you have designated to me? A.—Yes.

Q.—Then the cheques that went out during that month seem to be as follows; after the two that are not named but are only numbered, on the 11th February, cheque to Ryrie for \$375, on the same day a cheque to Fairweather for \$150. on the 12th a cheque to Irwin for \$1,000; a cheque to McCormack for \$1,000, and a cheque that is marked cooperage for \$600—do you know what that cooperage means in Mr. Fowler's business? Do you know anything about his business so that you can tell me? A.—I could not positively identify that.

Q.—The next cheque is Mr. Foster \$2,500. Through which bank have you ascertained that came? A.—Through the Bank of Montreal.

Q.—Then the next cheque is on the 13th to Townsend for \$100; then on the 18th cash \$2,000—what does that mean, in all probability, because of course you do not remember the transaction? A.—I did not look into that cheque at all. It might have been for a transfer or for a draft, or he might have taken the cash over the counter.

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Q.—He might have taken the cash over the counter, or might have bought a draft or made a transfer. You are aware of his having another bank account? A.—Yes.

Q.—He had an account in the Sussex branch of your bank? A.—Yes.

Q.—And he and Mr. Pope had a joint account in your bank also? A.—Yes.

Q.—Then the next is the 20th, Mr. Borden, \$100. The next is the 29th, number 89,705, \$1,500 and then the 7th March, \$109,052. Wpg.—I suppose that stands for Winnipeg? A.—Yes.

Q.—\$100? A.—Yes.

Q.—And then on the 16th March, McNabb, \$200. Now we have got to the balance. Taking down to McNabb \$200, it leaves a balance in the bank of \$431.70? A.—Yes, including the previous balance.

Q.—Then I ask you to take the deposits first of the 11th May. There is a deposit of \$11,000. I see here a cheque which I show you of Peter Ryan's on the Bank of Montreal, dated 11th May, 1904, payable to George W. Fowler or order for \$11,000, and I see "Bank of Nova Scotia, Toronto, May 11th, 1904" is stamped on the back of it. Now you identify that cheque as constituting that deposit? A.—Well apparently that is so.

Q.—Is there any doubt about it? A.—Well I do not think there is. Our second teller received the deposit.

Q.—Do you think there is any doubt about it? A.—No I do not.

Q.—Then I see that some of the cheques which were drawn upon the account within a short time after that deposit are marked with the names of payees, and some are not? A.—Yes.

Q.—You see that W. H. Smith is paid \$475 apparently? A.—Yes.

Q.—And Irwin \$5,000? A.—Yes.

Q.—Then there is another cheque to W. H. Smith for \$150—you see that? A.—Yes—that might have come out of a later deposit.

Q.—At all events you are furnishing us with the information which enables us to trace these various cheques into the other banks, so as to ascertain the payees? A.—Yes.

Q.—Then on the 11th June you see a deposit of \$10,000. There is an intervening deposit, but I am just

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(Chesley Schurman, Ex'd.)

dealing with particular deposits. You see a deposit of \$10,000? A.—Yes.

Q.—And your ledger itself shows a name? A.—Ryan.

Q.—Then if I show you a cheque of that date from Ryan to Fowler with your teller's stamp upon it, you will probably be able to tell me whether that identifies it at all? A.—Deposited June 11th?

Q.—Yes, that is the date of this deposit? A.—Yes.

Q.—Now that is only a cheque for \$5,000? A.—Yes.

Q.—Does the word "Ryan" in that line indicate that the whole \$10,000 consisted of Ryan cheques? A.—Well it might not.

Q.—You have no means of telling whether the other \$5,000 was a "Ryan" cheque or not? A.—No.

Q.—Then the next one I call your attention to is a deposit of \$20,000 on the 4th of July. You see that? A.—Yes.

Q.—\$20,000 on the 4th July? A.—Yes.

Q.—Now, I show you another cheque of a somewhat different class. I show you a cheque of the 4th July, 1904 made by the Union Trust Company, signed by John I. Davidson, Director, and by Mr. Foster, as Manager, payable to the Order of the Bank of Nova Scotia, for deposit to the credit of George W. Fowler, M. P., \$20,000 re Kamloops Lumber Company, on purchase of Okanagan Property? A.—Yes.

Q.—You see that cheque? A.—Yes.

Q.—And you see your teller's stamp of the corresponding date there? A.—He also writes on it "Credit the account of George W. Fowler."

Q.—That is written on it by the teller? A.—Yes.

Q.—Does that to your mind satisfactorily identify this credit of \$20,000 on the 4th July with this cheque? A.—Yes.

Q.—Then the next deposit that I ask you about is on the 19th July, and it is a deposit of \$2,000. You observe that? A.—Yes.

Q.—Now, I will leave that just for a moment and come to the next deposit. You see on the 2nd August a deposit of \$19,936.50? A.—Yes.

Q.—I show you a cheque for \$40,000, dated the 1st August; this is the

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cheque of the Kamloops Lumber Company, on the Standard Bank, payable to George W. Fowler, for \$40,000, re purchase Okanagan Property. You see that? A.—Yes.

Q.—And that bears your teller's stamp of the 2nd August, does it not? A.—Yes.

Q.—That is the cheque for \$40,000, and the deposit is \$19,936.50? A.—Yes.

Q.—Did you ascertain for me yesterday what became of the balance of that \$40,000 cheque? A.—Well, by referring to our books, I find that we transferred the \$20,000 for Mr. Fowler to the Bank of Montreal at Vernon.

Q.—On that day? A. Yes.

Q.—And that, with the exchange, made the difference between \$19,936.50 and the \$40,000? A.—Yes.

Q.—Then I pass over three cheques to which I shall come back in a moment, and I come to the deposit on the 1st November. You see a deposit there of \$40,000? A.—Yes.

Q.—And I show you the cheque of the Kamloops Lumber Company, of the same date, payable to your bank, for deposit to Mr. Fowler's credit, on account purchase Okanagan Lumber Company, \$40,000, and your teller's stamp of the 1st November is on the back of that. A.—Yes.

Q.—That identifies that credit, therefore? A.—Yes.

Q.—Then on the 22nd November I see a credit for \$20,000? A.—Yes.

Q.—You observe that in here? A.—Yes.

Q.—Similarly I show you a cheque of the 21st November, 1904, payable to your bank, for credit to Mr. Fowler, the cheque being the cheque of the Kamloops Lumber Company, for \$20,000 with your teller's stamp? A.—Yes.

Q.—You identify that? A.—Yes.

Q.—Then the next one I ask you about is a credit on the 1st February, 1905, \$57,855.48. A.—Yes.

Q.—I show you a cheque of that date, 1st February, payable to your bank to the credit of Mr. Fowler, the cheque being that of the Kamloops Lumber Company, for \$57,855.48, with your teller's stamp again upon it? A.—Yes.

Q.—That identifies that? A.—Yes.

Q.—Now, I go back and take another class of cheques. We will, perhaps, hurry a little through this, because it is formal, of course. On the 11th of August there is a credit of \$20,000; on the 8th September a credit

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for \$10,000, and on the 28th September a credit for \$12,000, making in all \$42,000? A.—Yes.

Q.—You see those credits there? A.—Yes.

Q.—I show you three cheques, August 11th, September 8th and September 27th, all of the Kamloops Lumber Company, two payable to Mr. Fowler, one to your bank per his credit, two of which are marked "account payment on account of logs cut and delivered," and the other just simply says "re payment Okanagan Lumber Company." You see those cheques and you see your teller's stamp upon them? A.—Yes.

Q.—Those are the three credits in respect of the payments for the logs. What is the state of this account now, the Fowler account? A.—A small balance, a balance of \$27.44.

Q.—That is all there is left in the account? A.—Yes.

Q.—And it has not been apparently an active account for some months? A.—No. (Statement Exhibit 545.)

Q.—Then the account of Rufus H. Pope, M.P., and George W. Fowler, M.P., commenced by a credit on the 2nd September, 1903, of \$20,000? A.—Yes.

Q.—And there have only been five credits since in the account, there are only five credits in the account down to the end of that year? A.—Yes.

Q.—Five further credits? A.—Yes.

Q.—One credit for \$4,105.32; one a credit for \$12,000; the next for \$8,000; the next for \$40,707.73, and the last on the 27th November is marked "Tel. trans, Sussex \$1000." What does that mean? A.—Telegraphic Transfer from the Sussex branch of the Bank of Nova Scotia to put this amount to the credit of these men.

Q.—Then in 1904 there only appears to have been one credit, \$23,577.12, on the 6th June. You observe that? A.—Yes.

Q.—In 1905 there appears to have been four deposits, the first being \$16,886.79 on the 8th June; the second \$15,000, 17th June; the third \$10,000 on the 23rd June. You observe those? A.—Yes.

Q.—Then on the 7th July a credit of \$19,000, and then one this year on the 22nd February, \$5,000. Now, that is all the money that has gone to that account? A.—Yes.

Q.—Then how much of that has been chequed out? A.—All but \$21.86.

Q.—Or is it \$31? A.—\$31.86.

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Q.—And that has not been an active account since last March? A.—No.

Q.—Then in the debits to that account appear certain names or indications of names. On the 8th September, opposite a debit of \$14,000, appears McK. & M. Do you see that? A.—Yes.

Q.—Do you know to whom that refers? A.—I presume it would be Mackenzie and Mann, but I am not positive.

Q.—Perhaps you are sufficiently familiar with the account to speak with almost a certainty about that? A.—Well, I am not.

Q.—Then the next indication of a name is on the 10th September, "Clair" \$1,000; do you see that? A.—Yes.

Q.—Do you know who Clair is? A.—No.

Q.—Then on the 23rd September, still 1903, Lefurgey \$2,000, and on the 24th Parlee \$200. Do you know who Parlee is? A.—No.

Q.—30th September \$1,000 debit, without any indication what it was for, or any number of the cheque? A.—No.

Q.—On the 1st October there is a debit of \$14,000 which is marked Ottawa. What would that indicate? A.—That is presumably a transfer to Ottawa.

Q.—To your branch there or to some other bank how would that be? A.—Well I could not say I do not think they had an account at the Ottawa branch.

Q.—Then the next is the 13th October, Ottawa, \$4,000 and \$2,000 and \$500 on the 19th; would that all be under the head "Ottawa" or just the first one? A.—No I think not.

Q.—And the other two are identified only by the numbers of the cheques? A.—Yes.

Q.—Then the 23rd October, R.H.P. \$1,501.33. Do you know who R. H. P. is? A.—It is undoubtedly Rufus H. Pope.

Q.—Then you have six transfers to Ottawa? A.—Yes.

Q.—Then you have Bennett \$2,000 on the 19th November; Peuchen \$2,000, and on the 20th November Clair \$1,000. That was intended to be erased there? A.—Yes.

Q.—On the 5th December, 1903, you have \$6,001.85, passing on a voucher numbered 221,083? A.—Yes.

Q.—After that the drawings are not identified with any names at all? A.—No.

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Q.—And the state of the account is, as you have told us, a balance of \$31.86? A.—Yes.

Q.—You have been good enough to furnish us, as far as we have gone through the account, with the information which will enable us to trace the cheques that came through the clearing house into the other banks? A.—Yes.

(Statement Exhibit 546.)

GEORGE E. FOSTER recalled. Examined by

MR. SHEPLEY: Q.—You are already upon oath, Mr. Foster. Had you ever any connection with the Independent Order of Foresters—any fraternal connection? A.—I believe by the grace of the Supreme Chief Ranger I was made an honorary member once, in the twinkling of an eye.

Q.—An honorary member in the twinkling of an eye, when the trumpet was sounded? A.—Well, I did not hear the trumpet, but I am conscious of that transaction.

Q.—I thought there was always a trumpet sounded? A.—Not being in their secrets I cannot tell, but if you would like to know I will try and find out, Mr. Shepley.

Q.—Had you any insurance certificate in force? A.—Oh no. I may say I had no connection, never had, and have not at the present time.

Q.—Except of the formal kind you have spoken of? A.—Yes, an honorary member.

Q.—Then from the time of the organization of the Union Trust Company you were General Manager as you told us the other day? A.—Yes.

Q.—Down to a recent period? A.—Yes, about May, 1906.

Q.—And you were upon the Board, of course? A.—Yes, a director.

Q.—You have heard, perhaps, the account that was given by Mr. Stevenson of the origin and organization of the Kamloops Lumber Company? A.—Yes.

Q.—Do you substantially agree with what he has said with regard to that? A.—I think in all important particulars my memory would bear out his testimony.

Q.—Do you remember then who the—I will call them promoters for want of a better name—who the people were who were then interested or proposing to become interested? A.—In the Kamloops Lumber Company?

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Q.—Yes? A.—Well, the names of those who were seeking to become interested, and who afterwards did become interested—for all that were seeking, as I understand did become interested—were McCormack, Fowler, Irwin, for what we may call the outside interest, and the Kamloops Lumber Company for the inside interests, with certain directors to represent their interest in the company which was to be formed.

Q.—Then it was intended, was it not, from the beginning, that all the money in connection with the matter should come from the Union Trust Company? A.—I think that is so, that up to a certain extent at least, although as Mr. Stevenson said, there was no idea at the time of entering into it that so large an amount of money as was afterwards found necessary was to go into it, but it was to be financed through the hands of the Union Trust Company loaning to the Kamloops Company and to the outside interests.

Q.—The Kamloops Company was to have its stock held as the original arrangement or contemplation, 51 per cent. by the Union Trust Company, and 49 per cent. by the three men you have named? A.—A controlling interest, I think that was it; afterwards, in order to make my testimony thoroughly correct, Mr. Irwin, though interested at first, dropped out.

Q.—And then there was a— A.—A reorganization of the interests held.

Q.—A re-adjustment of the interests, and do you remember the interest that was left outstanding? A.—I think it was as Mr. Stevenson stated.

Q.—That is what? A.—I could not say without looking at the testimony. I know that the Union Trust Company, or the Kamloops interest held by the Union Trust was increased and the other diminished, I think by the amount of Mr. Irwin's share, but I may say with reference to this, that though I have a general knowledge of the form and of the negotiations for the purchase of the different properties, that afterwards the management of it or the supervision of it was handed over to Mr. Stevenson, and I gave less attention to the details.

Q.—Did you become aware of the proportions in which, as between themselves, McCormack and Fowler were to be interested after the dropping out of Irwin? A.—As detailed in the documents themselves; from memory

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I could not tell you what their interests were as between each other.

Q.—You could not tell what their interests were? A.—No, and I am not sure whether the documents—yes, I think the documents do show the number of shares that would be held by McCormack and by Fowler.

Q.—You perhaps remember in a general way that speaking roundly, Fowler's interests were to be twice as much as that of Mr. McCormack's? A.—Yes, I think so, or somewhere near that.

Q.—And why was that? A.—I do not know why.

Q.—Do you know of any persons who had any interest in Fowler's ostensible share? A.—I do not.

Q.—You do not know of any? A.—No.

Q.—Are you speaking with certainty with regard to that? A.—I am speaking with certainty.

Q.—You yourself had none? A.—Not the least.

Q.—There was never any writing or documents between yourself and Fowler upon the subject of an interest in that property? A.—Yes, later, after the deal was all through, Fowler in a writing gave me an option on a part of his share which I had to exercise when I could. The option I think ran over a period of years, and if I called that option within a certain time I was to have the privilege of buying a certain number of shares at par, plus all interest and expenses that had been incurred up to the time of my taking up the option.

Q.—Then will you let us see that writing? A.—I think I have it in my possession.

Q.—Have you it here? A.—I have not it here, but I know it exists. I have it in my possession.

Q.—You will bring it here and show it to us? A.—Certainly, I have no objection at all.

Q.—Then that was intended, was it not, to give you an interest in the capital stock of the Kamloops Company, a personal interest in which was not disclosed, which was not in fact disclosed—I am not saying anything as to whether it should be? A.—No.

Q.—In fact you did not disclose it? A.—I did not disclose it. The date of that document I do not remember, but it was some time after the transaction was closed that it was—

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Q.—And have you ever, until today, disclosed the fact of your having that interest to anybody? A.—Yes I have.

Q.—May I ask how long ago? A.—Oh I do not think very long ago to Mr. Stevenson.

Q.—You did tell Mr. Stevenson about it? A.—Yes.

Q.—Recently? A.—Well, maybe 6 months ago; maybe 3 months ago.

Q.—Do you remember what the occasion was of your telling him? A.—The occasion on which I told Mr. Stevenson that was when we were talking over matters in connection with, I think, the British Columbia Developments of some kind or other. Mr. Stevenson and I had a conversation with reference to the negotiations, the prices and that sort of thing, and after the conversation was over I told Mr. Stevenson of that outstanding option.

Q.—Will you tell me a little more about that—it is rather vague about the subject matter of your discussion? A.—Well, I think that covers it as near as I can.

Q.—Was there dissatisfaction on the part of any of the members of the board of the Union Trust Company with the condition of things in respect of this company and in respect of Mr. Fowler? A.—I was not on the board—that calls to my mind—I was not on the board since I mentioned it to Mr. Stevenson; so that it would be since my going off the board, although I have a recollection more or less distinct of having on a former occasion talked with Mr. Stevenson with reference to the purchase of shares in the Okanagan Company. That I think was some time ago. That is not very distinct however.

Q.—Just directing your attention again to the subject matter of discussion, was there dissatisfaction at the time of that discussion with the condition of things in respect of this company? A.—In what way do you mean?

Q.—In any way? A.—Oh well, I understood that Mr. Stevenson at that time had an impression received from the west that a larger price had been paid than had actually gone into the hands of the owners of the property from whom it had been purchased.

Q.—What I want to get at is this; was there at that time a disposition to put a spur upon Mr. Fowler at all? A.—Not that I know of.

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Q.—You do not know anything of that kind? A.—No, I had nothing to do with that.

Q.—I am not suggesting that at that time you had, but I am trying to get the course of the discussion, did you mention it first to him or did he suggest it to you? A.—Are you talking of the opinion that I had on it?

Q.—Yes? A.—I suggested it first to him, and I think I mentioned to him at the same time that if the matter came up before the Commission, and I was called upon to give evidence, that I proposed to give that in my evidence.

Q.—Then we will return now to the organization of the Kamloops Lumber Company. It was of course in contemplation to acquire certain property? A.—Yes.

Q.—You were the managing director of the Union Trust Company, which was taking control of the proposed organization? A.—That is the Union Trust Company was taking control?

Q.—Yes? A.—Yes, and I was its manager.

Q.—I want you to tell us, if you can remember, what means you took of ascertaining the value of the property which you were to buy? A.—The means that I took, if you designate it that way, was to carry out the instructions which were given by the board, arrived at after a full discussion of the matter before the board, and what was done was this; the limits at that time under contemplation for purchase were defined. I think we had the maps obtained from the people themselves or from the Department at Ottawa, and the board decided to send out two gentlemen to make a thorough examination of the limits, and to report as to the quality of the limits, and, if I remember right, as to the reasonableness of the price. I think these gentlemen were sent or were commissioned to go in the autumn, and that their examination and report took up some two or three months, and the board acted upon the report given them by these two gentlemen.

Q.—Who were the two gentlemen? A.—As I remember, Mr. Irwin and Mr. McCormack, both of them practical lumbermen.

Q.—And both of them partners in the transaction? A.—And both of them interested in the transaction.

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Q.—Contemplated to be partners in the transaction? A.—Yes they might, therefore, be expected to be careful that they bought and received value for what they purchased.

Q.—And of course, you had a right to expect honest dealing from them? A.—Oh, we did, and I know nothing to the contrary up to the present time. Mr. Irwin is a man whom I have always been taught to regard as a very straight man and a very high authority on lumber. Mr. McCormack I have known for years as a practical lumberman and I would have bought on those two gentlemen's report. Of course, I was not a practical lumberman and I do not think we had one on our board.

Q.—And, I suppose, Mr. Fowler was as practical at that as he seems to have been at other things? A.—I am not expressing any opinion with reference to Mr. Fowler.

Q.—Do you think he was a practical lumberman? A.—I don't know. I think he knows a great deal about lumber, he has had considerable experience in it.

Q.—Had you any information—I do not want to put it as suggesting that it was a fact, I want to find out what you knew about it—did you think that Irwin, although nominally he had dropped out of the partnership, was in reality still interested in it? A.—I did not.

Q.—Under cover of anybody else? A.—I did not. I supposed when Mr. Irwin dropped out, that he dropped out.

Q.—You thought that was a real dropping out? A.—And don't know until this moment that he did not, and I want to say here—it may be useful as part of the evidence—that Mr. Irwin did not drop out of that transaction for any but one reason, so far as he disclosed it to me, and we had many conversations about it. He did not drop out because he thought it was not going to be a profitable thing. He rather blamed himself for dropping out for another reason which a good many people might call an insufficient or mulish one. He did not drop out because he had not confidence in the company. What he told me was that he made it a principle not to join in notes and he was perfectly prepared to put up his share in cash to the amount of \$60,000 or \$80,000, but he would not violate his rule, as he gave me to understand, of signing notes. He was able to finance his portion and wished

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to do it and he deplored the fact that he was missing a good thing by adhering to that principle.

Q.—That is in a little more detail, an elaboration of what Mr. Stevenson has told us with regard to that? A.—Yes.

Q.—What I have not been able quite to understand is, with his desire to remain in and his willingness to put up his share in cash, why he was let go because he would not take credit? A.—I think Mr. Stevenson explained that. What the Union Trust Company or Kamloops Company insisted upon was that we should have a joint and several note, so that we should have the responsibility of each one for all, and that was what we understood Mr. Irwin had agreed to, and certain signatures that he made led us to believe that that was so, but when it came to one particular point in the negotiations, that was the final point, he then stated his objection to signing any notes and he went out on that consideration and on that alone, so far as I know.

Q.—Why was not his cash taken and the joint note of the other two? A.—Well, that probably was following out what the other directors had agreed upon.

Q.—That is that there should be no cash in it? A.—No, not that there should be no cash in it.

Q.—Except the Union Trust Company's cash? A.—But that there should be the joint and several liability and they did not propose that that should be altered.

Q.—That does not appeal to me exactly as you put it. You would have the joint and several liability from all who did not put up the cash and the cash of those who did not sign? A.—But we would not have the joint and several liability of three men.

Q.—Do you say Mr. Irwin was the most responsible of the three? A.—I would not like to be invidious in that. I know the directors thought Mr. Irwin was a very responsible man, but that was the opinion of the directors.

Q.—That they would rather have a joint and several note without cash from the three, than have cash from the one and a joint and several note from the other two? A.—Yes that was the conclusion they came to, and Irwin went out on that.

Q.—You speak of the opinion of the directors. I suppose you concurred in it? A.—I did, yes.

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Q.—You were taking your part in the negotiations, and an active part?

A.—I never intend from the beginning of this to the last to try to get out of any responsibility of mine as a director, whether I was absent or present, agreed or did not agree. If I stayed in and the policy was carried out I am responsible for it.

Q.—Perhaps you will go a little further. You were, yourself, a man who formed your own views upon questions of policy and expressed them freely? A.—Yes.

Q.—And you are a man of strong convictions and were able to impress your views very frequently upon directors, some of whom do not seem to have been very careful or attentive? A.—I don't think that applies to our directors.

Q.—You do not negative the first part of the question? A.—Oh well, I would not like to interfere with what seems to be your judgment on that.

Q.—I have no judgment upon it; I am asking you? A.—I often find myself up against people whom I cannot influence. I have to form my judgment from what sources of knowledge I have; they may be faulty often or may not.

Q.—And no doubt quite properly it was part of your duty to form policies to be submitted to your brother directors? A.—Yes.

Q.—In your position as Managing Director? A.—Yes, naturally would be.

Q.—Then did you agree in the policy that you have spoken of with respect to excluding Irwin? A.—Well, would you call it excluding Irwin? I would rather not put it that way.

Q.—He was excluded because he wanted to put up cash instead of signing a joint and several note? A.—I agreed to the policy which the Board formed, of insisting upon joint and several responsibility.

Q.—Was that your policy accepted by the Board or was it the policy of someone else forced upon you by the Board? A.—Oh, I cannot at this distance of time say who was the chief proposer or the chief one who pressed that policy, but I quite know that the Board concurred in that policy. I will tell you one thing with reference to all transactions of the Board. I might just as well say it now as later. Some time I intended to say it. There were two principles that the Board acted upon in their work; one was a rule seldom violated, that

in any considerable investment it would not be made, after canvass and discussion, if there was any one or two directors who strongly objected to it. It was felt that there were plenty of investments that could be had, and that we had better in the end, after discussion and presentation of our ideas, take those investments upon which all were agreed or upon which, in the end, all agreed to agree. There was another invariable rule, and that is this; that the outside directors, representing but a very small interest in the company, whilst giving their best work that they could, in counsel and policy, presentation of their ideas and the like of that, never in a single instance insisted on an investment which had not the co-operation and the assent of the Foresters' portion of the directors. That may serve to elucidate some things in the course of the testimony that will be given. I think Sir John Boyd mentioned that in his testimony. I am not sure.

Q.—Then what was the reason for adopting the policy of going into this transaction, the Kamloops Lumber Company, and purchasing this property? A.—The policy as a whole?

Q.—What was the reason for it? A.—For going into it?

Q.—Yes? A.—Well, the reason was to undertake an investment which promised to be profitable, and to make money out of it for the company.

Q.—That was the object. Had you in your Board any discussion as to the wisdom or otherwise of a trust company carrying on a manufacturing business? A.—Oh, I think we did discuss that, yes. We certainly discussed the feasibility of going into the operation.

Q.—Was there anybody to criticize it from the standpoint of prudence? A.—I don't remember that any objection was made to it other than in incidental discussion and I cannot now remember whether that point was raised even in incidental discussion, but I know this that the Board was a unit upon the transaction as it was ultimately put through.

Q.—So far as you can recollect there was no warning from any member of the Board as to the imprudence of that sort of thing with trust funds? A.—Not that I remember—if you call it imprudent—but not that I remember was there any opposition to the transaction being undertaken.

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Q.—I am not using the word opposition; I used the word warning?

A.—Well, I have given you all the answer that I possibly can, Mr. Shepley. I don't think there was.

Q.—That is all you can say with regard to it? A.—Yes.

Q.—You are, perhaps, familiar enough with business affairs to say whether trustees and executors would be permitted by the law to do that sort of thing? A.—We had our legal advisers upon the Board and so far as my legal conscience is concerned, I gave it up to those.

Q.—Your legal conscience was in the keeping of Matthew Wilson and John A. McGillivray? A.—I did not say that, Mr. Shepley.

Q.—Had you any other legal advisers on the Board? A.—I think Mr. Stevenson is probably as good a lawyer as either of the other two, not being invidious with regard to any of them.

Q.—He was the standing counsel for the Foresters? A.—He was. Mr. McGillivray was also a lawyer. We had an overplus of lawyers.

Q.—And Mr. Wilson was the solicitor for the Union Trust Company? A.—He was.

Q.—And can you say whether or not that point of view was ever presented to you, say by Mr. Stevenson for consideration, or Mr. Wilson or Mr. McGillivray? A.—I don't remember that it was. Afterwards, when the time for re-arrangement came, Mr. Stevenson then raised and pressed that point very strongly, as appears in his evidence.

Q.—That was being wise after the event? A.—Well, many of us are that way.

Q.—We are interested, however, Mr. Foster, in being quite clear about that, whether this great trust company, with its vast accumulation of trust funds in hand, ever considered and weighed the policy of going into trade with those trust moneys? That we are wholly much interested in knowing? A.—They certainly weighed and considered the policy and made the decision which is shown in the proceedings.

Q.—I know they made the decision, but I am speaking about weighing it? A.—Well, I must say that they have weighed it. We had meeting after meeting with reference to it.

Q.—Did it ever present itself to your mind? You can speak for yourself? A.—As far as I am concerned I can speak for myself, and I drew,

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as I drew here before, a distinction between the two classes of money that we had for investment and I took it and I kept it as my idea that the money which came into the Union Trust Company as a subscription to stock, the capital of the company, was under its own management, under the powers of investment that it had by its Charter, and I think through and through they were looked at in that light. The money that the Foresters gave us for investment on the guarantee principle was money that was to be invested according to the investment powers of the Foresters themselves. We always kept that distinction in view.

Q.—You were aware, of course, Mr. Foster, if you had reflected—if you did not reflect upon the subject that is another thing—but you would have been aware if you had reflected for a moment that the capital funds you had on hand were handed to you as an investment by trustees of those funds? A.—I knew exactly where the money came from to buy the capital.

Q.—You knew that? A.—Yes.

Q.—That it was trust funds put into your capital stock as representing an investment of those funds? A.—It was the funds of the Foresters undoubtedly.

Q.—And trust funds? A.—Well, you may call them trust funds.

Q.—Will you call them trust funds? A.—Well, in a way I think they are.

Q.—Do they cease to be trust funds because invested in the capital stock of the Union Trust Company? A.—You are going, now, into a discussion which I do not see will amount to very much. You have one opinion and maybe I have another.

Q.—It is your opinion that is of value to us, not mine? A.—I think I have stated to you about my view with reference to that, and it was the view which was practically acted upon by the Board. I may say that if trust funds were in the hands of the Foresters and they had before them certain classes of investments in which to put them, they had their choice and they had to take their responsibility. When they made their investment in the capital stock, say of a bank or of any other company, then the money passed out from their hands and became the property of a different entity entirely, to be disposed of and managed according to the powers that that entity had. Now those are briefly my views.

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Q.—That is what you have told us the other day? A.—And I think I can scarcely go beyond that.

Q.—I still wish, without desiring at all to press you unduly, whether in your own mind you felt your trust company untrammelled by the existence of the original trust? A.—Well, the only answer that I can give to that is in effect what I gave you before, that I considered when those moneys came and were transferred into stock and the investment went in the shape of stock into the hands of the original trustees, they had their investment and were responsible for it, but that we, as directors of the Union Trust Company or any other trust company had the right to invest those funds, our capital stock, according to the powers that a trust company had.

Q.—And without regard to the fact that the moneys in their inception were impressed with a trust? Please if you will, answer me that, because that throws at once a light upon the policy of the Union Trust Company, a light that we are entitled to have, as the Board has ruled? A.—Well, as far as I am concerned that is about what I thought.

Q.—Then you entrusted Mr. McCormack and Mr. Irwin with the examination of and the reporting upon the proposition as a profitable one from a business standpoint? A.—Yes, the Board did and I carried out their instructions and was responsible as one of the Board for those instructions.

Q.—We have been told, I suppose with accuracy, that Mr. Fowler was entrusted with the negotiations for purchasing? A.—Well, that appears on the document. Whatever the documents say—they speak for themselves—

Q.—You do not dissent from that? A.—Well, my general idea of it is—I have not refreshed my memory particularly—I am speaking from a pretty good knowledge of what took place—that Mr. Fowler procured an option on those properties from Mr. Ryan and transferred that option to the Union Trust Company or the Kamloops Company, whichever it was.

Q.—He was procuring that option in pursuance of the negotiations between you? A.—Absolutely so.

Q.—Then will you accept this question as a fair one? He was really the agent for himself, McCormack, Irwin and the Union Trust Company in pursuing those negotiations? A.—

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I am not able to give you an answer on the question of agency. That is a legal question.

Q.—Then would you or not think that in the course of those negotiations he would be entitled to make a personal profit for himself? A.—That question never arose in my mind.

Q.—Now that I put it to you what would be your answer to it? A.—Well, that is a hypothetical question and I don't think that I can express an opinion upon that, or should express an opinion on it.

Q.—You do not feel like expressing an opinion as to whether or not, if you entrust me with certain negotiations on your behalf I am entitled to make a personal profit unknown to you? A.—I think I would call you to account pretty sharply for everything you did, that is all I can say.

Q.—I think that substantially answers my question. Then, when did you first become aware of what we have heard here from Mr. Ryan and Mr. LeVesconte as to there being this double option? One the real option and the other the one to be foisted upon Mr. Fowler's associates? A.—I first became acquainted with it when I heard the testimony given here and I have no recollection of knowing it beforehand, although I have a dim recollection that someone, probably Mr. Stevenson, gave me to understand that from what he had heard there was a large difference between the price which we paid and the price which actually went into Ryan's hands, Ryan standing for the Vendor of the property.

Q.—You were, of course, aware that you were paying \$225,000? A.—Perfectly.

Q.—And you were not aware, you say, that any portion of that was being rebated? A.—No, way, shape or form, Mr. Shepley. I had no other idea.

Q.—And you say that you did not become aware of that until what you have heard in the course of this inquiry? A.—Yes, that is as to the two options so to speak, or the two prices. Of course you understand that before that there had been newspaper information from the British Columbia trial and while I was on my holidays, in my newspaper I saw an excerpt from the proceedings at that trial, a short one, and that is all that I know about it.

Q.—That, of course, was before the Foresters were touched in this in-

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quiry, but since this Insurance Inquiry began? A.—I don't know the date of the trial. I know I read the excerpt from the testimony in the summer.

Q.—And when you saw it, it came to you as a piece of news? A.—It did, absolutely.

Q.—A surprise. There was no independent inquiry as to the propriety of paying the larger price. I mean when I say independent, you did not take the opinion as to the merits of the proposition, of any person except those who were interested? A.—We simply sent our examiners, took their report, canvassed their report, which was favorable as to the worth of the limits, and favorable as to the reasonableness of the price, and we paid it.

Q.—Their examinations— A.—Their examinations were favorable.

Q.—Their examinations being the examinations of people who were interested in having you take up and finance the proposition? A.—Very well.

Q.—That is right, is it not? A.—That is right, yes.

Q.—Then, Mr. Foster, it is proper that you should have the earliest possible opportunity of saying what you have to say with regard to the payment to yourself—an apparent payment to yourself, out of this very money? A.—I do not know yet, Mr. Shepley, that I have been paid anything out of this very money.

Q.—The Bank of Nova Scotia had an account with George W. Fowler? A.—Yes. I know that.

Q.—\$12,000, being the first payment by Ryan to Fowler in respect of this rebate, has been traced into that account. You are aware of that? A.—Yes, I know that.

Q.—And that \$12,000 seems, with the exception of a small portion, to have been paid out to certain persons? A.—I know nothing about that except what I heard this morning.

Q.—Among others your name appears for \$2,500? A.—\$2,500.

Q.—Now, I ask you to make any explanation or statement you think proper about that? A.—I am very glad to make a statement with reference to that. I think I had better preface it by another statement, if you will allow me, first. That in so far as any interest, actual or prospective, in any of the properties bought by the Kamloops Lumber Company is concerned, I had absolutely no

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interest at all.—Consequently there was no inducement for me to buy those properties because I was buying a part of what belonged to myself. In the second place I wish to say this, that the prices that were paid and agreed to be paid for those several properties were, so far as I knew, the actual prices that went into the hands of the people who sold them, and that no inducement was ever offered to me by any person in the shape of sharing in the commission to induce me as one of the directors to favor those purchases, and that I never received one dollar of commission, good, bad or indifferent, with reference to those properties. Now, I cannot make that statement, Mr. Shepley, any stronger than I have made it.

Q.—No, you cannot make the statement any stronger? A.—Now, you ask me for an explanation, having found out that a cheque of \$2,500 appears to have been given to me by Mr. Fowler?

Q.—Out of this very fund? A.—Yes, if there was nothing in that deposit except the moneys that came—

Q.—There was \$17.30 besides that \$12,000 and no more? A.—Well, if that deposit was made up entirely of what we will call, the Ryan money, then I have nothing to say against your statement that that came out of that money.

Q.—Then, I ask you, accepting that statement as now proved, to make whatever observation it occurs to you to make? A.—Now, I will make the explanation which I think you are entitled to and which the Commission is entitled to. Unfortunately I am not a lawyer and equally unfortunately I have been in politics for a long number of years. I am, therefore, not rich. I have had my own share of financial burdens and I have had some difficulty in bearing up those financial burdens from the time that I left the Ministry, and even before it, up to the present time. It has not been a pleasant road for me to travel, but I have travelled it. About the year 1904, and 1905, I had large obligations which had been incurred long before but which came to a head and had to be met. Those obligations were on account of ventures, transactions, businesses, into which I had gone. I was unable to meet those out of my own funds and I had to call upon a number of my friends to assist me. I do not imagine the Board wishes me to name the friends upon

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whom I called and who did assist me. I am able to say to you, sir, that at the present time I have discharged my obligations to them. Amongst others whom I called upon, was Mr. Fowler, with whom I had had transactions for upwards of twenty years, backwards and forwards, and I did receive money from Mr. Fowler, this \$2,500 included, on account of and in connection with those payments that I had to make and certain transactions between Mr. Fowler and myself in connection with properties which had nothing at all to do with the Foresters, with the Union Trust, with the Kamloops Company or with any other company which has been named in this investigation. Now, that \$2,500 and some other moneys that I received from him—for I received more than \$2,500—and Mr. Shepley, you could have had all this information ten days ago, if you had put me in the box and asked me for it. I do not want you to think that this explanation is coming—

Q.—Ten days ago your counsel was arguing that I could not ask any of these questions.

MR. NESBITT: No, excuse me, I protest most absolutely against any such suggestion.

MR. SHEPLEY: Perhaps longer than ten days ago.

MR. NESBITT: No, not ten days ago nor ten months ago, Mr. Foster's counsel has not suggested and does not suggest that so far as any question relating to Mr. Foster personally you could not have any explanation you desired, but I said you had no right to go into the books of these subsidiary companies and to deal with their affairs any more than you would have the right in the case of any other large companies who are holders of stocks in banks—because you have company after company who are holders of shares in banks—to go into all the transactions of those banks with their customers, whether they are lending in New York and all the rest of it—I have protested against that and now protest on the same lines; but as to shielding Mr. Foster or attempting to shield him, I ask Mr. Shepley to say, with that fairness which has always characterized his conduct, so far as I am concerned, that I said to him, several days ago, that I wanted to put Mr. Foster on the stand and that he was ready to answer anything relating to himself. You can bear me out, Mr. Shepley, in that. If you mistook the nature of my objection,

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that is not my fault, nor is it yours, perhaps.

MR. SHEPLEY: My learned friend is partly right and partly wrong. No doubt I am partly wrong, as well as partly right. My observation was directed to this of course, and I think your Honors will have understood me, that objection was made to my following the affairs of the trust company at all, and this is an affair of the Trust Company, it is not an affair of the Foresters, except in the indirect sense. I was referring to that objection, and I say at once that my learned friend has not desired, since that avenue was opened to me, to withhold information.

MR. NESBITT: I do not think I have altered my attitude from the start. I may be wrong.

MR. SHEPLEY: We were dealing with that payment, Mr. Foster, of \$2,500. You tell me there were other payments as well? A.—Yes.

Q.—You will, perhaps, be able to tell me the amounts of the other payments and approximately, their dates?

A.—I cannot tell you exactly the amounts but I can say this, that the amount of money I have received from Mr. Fowler in this way does not exceed \$7,500 and is more than \$5,000. It is to the best of my judgment within those figures. Now, I had not finished my explanation, if you will allow me.

Q.—I did not intend to interrupt you, Mr. Foster? A.—These amounts that I received from Mr. Fowler in this way were not absolutely advances out of pure accommodation. Now, you see what I mean?

Q.—No, I do not quite understand what you mean? A.—Don't you? Well, what I mean is this; that they were not simply advances made to me out of pure accommodation. I will explain that as I go along. Mr. Fowler and I, together with others, were in another transaction, a coal mining property, in which Mr. Fowler had guaranteed to me a certain interest. This arose before Kamloops was begun or, so far as I know, thought of. Mr. Fowler supposed that he had that interest secured for me in a certain way, but when I came to demand it I found out that it had probably gone to another party, but that he himself would see that I got it; that he had certain interests and that if I did not get it from the party from whom he expected it to be got that he would hold himself responsible

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for it. Now that interest in my estimation is worth as much, if not more than the amount of money which Mr. Fowler advanced to me. The transaction, to come down to short words, is this in part, or is this in the whole, that I got advances from Mr. Fowler and that they were a set off against the interests which he was bound to deliver to me. Partly, therefore, accommodation, and partly set off against a claim of my own. But once again let me say that it had nothing to do with commission in any way. If it came in whole or in part out of moneys that Mr. Fowler got by way of commission, I did not know it and I do not think I am responsible for it.

Q.—Then, as I understand you now, it was partly voluntary or gratuitous and partly by way of discharging an obligation that these moneys were paid to you? A.—Partly, yes.

Q.—Where did you get the \$2,500? A.—Where did I get it?

Q.—Yes? A.—I cannot remember, but by cheque I think, and I think, moreover, that I immediately endorsed that cheque to the Bank of Montreal in this city and paid it there on an obligation which I was discharging at that bank.

Q.—Did you get the rest of it by cheque or cheques? A.—I think some by cheque, maybe all. I cannot remember, I do not remember.

Q.—Is the Bank of Montreal your banker? A.—No; and, yes.

Q.—Did the moneys that you received from Mr. Fowler go into the Bank of Montreal? A.—This amount did.

Q.—That \$2,500 did? A.—Yes, but went into the Bank of Montreal not as a deposit, but simply to discharge an obligation which was lying there.

Q.—How did the question of the payment arise between you and Fowler? A.—I told you and the Commission before that I had to apply to some of my friends to assist me, and I applied to Mr. Fowler.

Q.—You asked him for it? A.—I applied to Mr. Fowler for assistance. I had often assisted him before and he had often assisted me.

Q.—You applied to Mr. Fowler for assistance? A.—Yes.

Q.—In respect of the obligations which were then resting upon you? A.—Yes.

Q.—And those were obligations do you say, of a business character or obligations arising out of your political career or both? A.—What distinction do you draw? I want to be

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very clear about that question before I answer it.

Q.—It was you who suggested the distinction to my mind, whether you intended to or not. You spoke a moment ago of certain business ventures? A.—Yes.

Q.—Which you had been engaged in and which had left you involved? A.—Yes, oh, well, I explained that in this way—I think I see what you are after.

Q.—I am not after anything, except an explanation? A.—Well, I think I see what your question drives at and I will give you my answer, if you will allow me. I went into politics in 1882 and I remained in active politics until 1896, the latter part of that time as a Minister of the Government, and for four years thereafter as a private member. Somehow or other I had not the peculiar kind of ability which would enable me to do my political work and make myself rich at the same time. I came out of politics poorer than I entered it. I came out with obligations to a certain extent. Then I found myself under the necessity of doing something for myself and I undertook several ventures in business. Some of them I wish I had not; others I am rather pleased to think I did; but on limited finances it became difficult and it was only by the assistance of kind friends that I was able to carry them out. These obligations accrued, as I tell you, and I had recourse to my friends, and amongst them was Mr. Fowler.

Q.—Did you apply to Mr. Fowler for any definite sum? A.—I told Mr. Fowler about what my obligations were and what I would like to have, and he said he would assist me.

Q.—How much did you tell him you would like to have from him? A.—Well, I think about the sum that I mentioned to you.

Q.—About \$7,000? A.—Somewhere between \$5,000 and \$7,000, I cannot tell you exactly.

Q.—Don't you keep any account? A.—Well, I did.

Q.—Are you treating this as a debt that you owe to Mr. Fowler? A.—I think I explained that so that the Commission will absolutely understand it. I said that it was not simply accommodation or debt, but that it was part accommodation and a set-off against a claim that I have against him, which claim I thought would be quite sufficient to obliterate the amount that he let me have.

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Q.—There was no mention of this claim when you applied to him for the money? A.—Oh yes, there was. There was mention of that claim for a year beforehand, and I was pressing him for it.

Q.—You have spoken of applying to him for assistance as a friend? A.—Yes, so I did.

Q.—You were not demanding money from him as a debt, were you? A.—I was asking him for assistance as a friend, but at the same time with the perfect knowledge and understanding that there was that as well.

Q.—On your part? A.—On my part, and I think on his part.

Q.—You do not tell me that he was acceding to your demand and paying you a debt that he acknowledged himself to owe you? You do not want us to understand that, do you? A.—It is not exactly that. At the present moment if Mr. Fowler will hand over to me that interest I will pay him back the money that he advanced to me.

Q.—He has not handed it over yet? A.—He has not.

Q.—And he does not recognize an obligation to hand it over to you, does he? A.—Oh well, I don't know.

Q.—He has not recognized it in any tangible form? A.—He has not handed it over.

Q.—And he has not bound himself in writing to hand it over? A. No.

Q.—Then, will you be good enough to tell us if you think proper, what the interest is which you claim from him? A.—Well, now, Mr. Shepley, I do not wish to go into that, because the interest is an interest in which a good many are interested as well as myself. It involves interests which have not yet culminated in clearing up and I do not care to have spread on the pages of the newspapers or particulars with reference to that. I give you my oath that that interest exists, and I give you my oath as well that I have never taken anything in the shape of commission on those transactions, and I think that ought to be sufficient. If you think it is not sufficient, I am willing to explain to the Commission and to you what that interest is.

Q.—But you prefer not to say? A.—I prefer not to go into particulars with reference to it.

Q.—That interest, whatever it is, has never been acknowledged in any tangible form by Mr. Fowler? A.—Oh, Mr. Fowler acknowledges and has acknowledged that he is to get that

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interest for me, that he promised to get it and that he holds himself to get it.

Q.—In any tangible form? A.—Well, if you call a tangible form a writing, no.

Q.—And he did not, when he gave you the cheque for \$2,500, or any of the other moneys, say, "This is to be offset against what I owe you, the interest I am to get for you," did he? A.—No.

Q.—Then, if I grasp the meaning correctly, what you had in mind when you spoke of that interest as an offset, was really something rather in your mind than a subject of discussion between you and Fowler? A.—No, it had been repeatedly a subject of discussion between myself and Mr. Fowler.

Q.—But not as connected with the payment of these moneys to you? A.—Even as connected with the payment of these moneys. I have told Mr. Fowler on several occasions that I considered that that interest was quite equivalent to what I had received from him, and he has acknowledged the value of the interest to me, over and over again.

Q.—He has not demanded any refund of the money from you? A.—No.

Q.—You are not on terms to refund it, with him? A.—What do you mean by that?

Q.—You did not borrow it from him, did you? You told me that in so far as it was not set-off it was a gratuity? A.—A gratuity? I never meant to tell you that.

Q.—Did you borrow it from him? A.—I borrowed it from him. I took it from him as an advance to assist me and if, in the end, this interest that he is to get for me, is not got, I hold him for that and that will be an accounting between himself and myself.

Q.—That is not pursuant to the terms of any arrangement between you and him? A.—That is understood between us. But there are no writings, never have been.

Q.—You asked for the money because you needed assistance; he gave you the money; you had in your mind the fact that there was an outstanding interest that sometime or other you would get, and in that way you thought that you had an off-set?

MR. NESBITT: Do you think that is a fair way to put it, Mr. Shepley? I do not like to interrupt, but he has

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said that for a year he was dunning him and claiming this interest and so on and telling him he needed money.

MR. SHEPLEY: I heard that.

MR. NESBITT: I think that ought to be put in that question, if you want to be fair.

MR. SHEPLEY: But Mr. Foster at the same time says that he was not, when he got this money, demanding it as a discharge of an obligation.

MR. NESBITT: He had not a pistol at his head. A man he had been dealing with for twenty years. It would be as if I asked you for assistance, which I think you would give if you had it, or vice versa.

MR. SHEPLEY: You are not able to give me approximately the dates at which you received these moneys from Mr. Fowler other than the \$2,500? A.—All the moneys I received from Mr. Fowler I received in the years 1904 and the early part of 1905. I have not received anything from him since.

Q.—Did you, on each occasion, ask for money? A.—I asked on the first occasion for what help he could give me up to a limit such as I have stated, and he said he would assist me, and I received somewhere between \$5,000 and \$7,000.

Q.—Then, what I asked you was, did you ask for money on each occasion on which he gave it to you? A.—Yes, I think I did.

Q.—Do you know where Mr. Fowler is? A.—I do not.

Q.—You have not been in communication with him for some days, I suppose? A.—No, I have not.

Q.—When did you see him last? A.—I saw Mr. Fowler in Toronto about the time of the opening of the Court.

Q.—When he was here upon subpoena? A.—When he was here before subpoena and when he was here I understood—no, I have not seen him since he was subpoenaed.

Q.—Did he tell you where he was going? A.—He told me he was going to British Columbia.

Q.—Nothing more definite than that? A.—Nothing more definite. I have not the least idea to-day where he is.

Q.—Then will you give me such assistance as you can in tracing these various payments from Mr. Fowler to you so that we may ascertain their exact amount and the exact dates? A.—Well, with reference to the exact amounts and the exact dates I cannot tell you.

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Q.—I ask you if you will give us assistance in tracing them? A.—Oh yes, I have no objection to doing that.

Q.—Do you remember the size of any of the cheques besides the \$2,500? A.—No, I do not.

Q.—And in what banks might we inquire, besides the Bank of Montreal? A.—As to where the moneys went?

Q.—Yes? A.—Well, I cannot tell you that. The obligations that I would discharge, would be discharged, I think, without any moneys being deposited in the bank, although in some cases they might have been deposited in the bank.

Q.—That is, you mean to say, you have endorsed the cheques over to a creditor? A.—Yes.

Q.—Instead of depositing them and sending your own cheque? A.—This one cheque that you speak of, the \$2,500, I remember that I endorsed over to the Bank of Montreal here in the city, and I have an indistinct recollection, which I think is a pretty good one, of endorsing a cheque over to a party in the city of St. John for the discharge of an obligation that I was under to him. Also one of my friends.

Q.—At all events whatever assistance you can give us, you will? A.—I will, yes.

Q.—Are you able to offer any explanation of the cheques that appear to have been paid out of this sum, \$12,000, to McCormack and Irwin? A.—Not the least. I know nothing about them at all. Absolutely nothing. There is no reserve in that at all.

Q.—Unexplained it would cast some doubt upon the good faith of their valuation, would it not? A.—I have not thought of it in that respect. The first I knew of those payments was when you read them over this morning.

Q.—That is the first you know of them? A.—Yes.

Q.—Well, then let me follow a little further into the affairs of the Kamloops Lumber Company. It became your policy—when I say your policy I mean the policy of the Union Trust Company and the shareholders of the Kamloops Lumber Company—to extend and to purchase further properties? A.—As detailed by Mr. Stevenson, and his detail of it showed the successive steps that were taken.

Q.—You remember, of course, the Okanagan purchase? A.—Yes, I do.

Q.—Who were relied upon for estimates and valuation in the purchasing of that property? A.—I think

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Mr. Irwin was chiefly relied upon in that. Now, with reference to that again, I say that I have not refreshed my memory with references to it, but the documents will tell and that is simply my recollection. I know we had a report upon it. I think Mr. Irwin went and cruised a part of the limits himself.

Q.—Had Mr. McCormack anything to do with it? A.—I think we had reports from Mr. McCormack as well.

Q.—From Mr. McCormack and Mr. Irwin, both? A.—Yes.

MR. NESBITT: Pardon me, Mr. Shepley; Mr. Thomas Hamilton was also sent out? A.—Oh yes, I remember now, Mr. Hamilton, who was recommended to us by one of our directors, who knew Mr. Hamilton as a very practical lumberman, and recommended that we send him with Mr. Irwin. Yes, my recollection comes back to me now, it was Mr. Irwin and Mr. Hamilton who were specially sent.

MR. SHEPLEY: Then there was a lot of logs in connection with the purchase for which the Kamloops Company paid \$42,000? A.—Whatever the sum was, yes.

Q.—Upon whom were you relying in respect of that? A.—We relied on the reports of the checkers so far as I recollect, supervised by Mr. McCormack, and I think you will find all the checkers' reports affirmed and in the records of the Kamloops Company. I remember they all passed before me and that we paid upon those.

Q.—I do not know about McCormack and Irwin, but you were not perhaps, sufficiently familiar with the subject to be surprised that you should have seven million feet of logs on that property? At \$6 a thousand, there must have been seven million feet of logs. Did that strike you as extravagant? A.—I express no opinion about that. Whatever amounts were there were paid for.

Q.—I am afraid you paid for a great deal that was not there? A.—I don't know that we did.

Q.—I am told that there is not pond room there or floating room there for half that quantity of logs and that the mill would not cut that number of feet in two or three years? A.—Well, I am not competent to give evidence about that. I never was there. Mr. Stevenson was there and had charge of it, and he will be able to answer any questions on that.

Q.—Did you hear the evidence the other day with respect to that pur-

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chase and what was done by the Kamloops Lumber Company in that transaction? A.—The evidence you got from Mr. Bull?

Q.—Yes? A.—I did.

Q.—It came as a surprise to you, of course? A.—I knew nothing of it before. I had no interest in that company; knew nothing about their transactions, good, bad or indifferent.

Q.—You knew nothing about that company except that the Kamloops Lumber Company was acquiring this property? A.—Yes, that is all. But I mean about the organization of the company, its shares, who held them, how they financed it, I knew nothing about it.

Q.—Did you not grasp the fact, as you heard the evidence, that Mr. Fowler was absorbing an enormous sum of money to himself when he was acting as your agent in buying the Okanagan property? A.—I did not form any opinion about that.

Q.—That did not strike you when you heard the evidence? A.—I did not follow the evidence out to that point because I do not think the evidence went to show where the moneys went.

Q.—You know it was all traced to Mr. Fowler and the Bank of Nova Scotia? A.—I knew that and I knew also, from the evidence, that Mr. Fowler was the agent of those gentlemen to sell their property and make them their payments.

Q.—And he was your agent to buy it? A.—Well, the documents will show what that is. I haven't it clearly in mind.

Q.—You do not dissent from that at all events? A.—The only idea I have at the present time is that Mr. Fowler brought an option from that company and that the Kamloops Company, after investigation, accepted the option and paid the money.

Q.—And this did not strike you as you heard the evidence, that Mr. Fowler paid to those who owned the property about \$80,000 and that he got from the Kamloops Lumber Company \$175,000 plus \$42,000 for the logs? A.—I did not hear the evidence carried out to that extent. I was particularly struck with the easy profit that Mr. Bull made.

Q.—But he was only a little man. You were not struck with the profit Mr. Fowler made? A.—I don't know what profit he made and I don't know whether he made any profit.

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Q.—You did not observe anything that would warrant that conclusion or inference in the testimony that was given the other day? A.—That depends.

Q.—What was your official position in the Kamloops Lumber Company? A.—I was a director without interest.

Q.—You were a director without interest, representing the holding of the Union Trust Company? A.—Yes.

Q.—With no personal interest other than what you might have under that option you have spoken of? A.—That is all.

Q.—Then do you remember the Kamloops purchase of the Shuswap property? A.—I remember that we bought the Shuswap property.

Q.—Do you remember the price that was paid? A.—\$40,000, I think.

Q.—Who were your examiners on that occasion? A.—I cannot tell you, I don't remember.

Q.—You do not know upon whose judgment you were relying there? A.—I don't remember, no. If I had the documents I could probably see.

Q.—There is no doubt that the Kamloops Company paid the \$40,000? A.—Not the least.

Q.—Where it went to is something you don't know? A.—Where I supposed it went was to the purchasers.

Q.—Where it did go to you don't know? A.—I don't know.

Q.—You don't remember whether in that case you were relying still upon McCormack? A.—I don't remember. The only thing I remember about that thing was that it was an available property, had very valuable limits up the Celista Creek; and I think there was also an idea that it included a possible point for opposition and competition. On that and other grounds it was purchased, but as to the details of the matter I do not recollect.

Q.—You were, no doubt, familiar with the details at the time? A.—Oh, as far as they existed in the documents, I knew them.

Q.—What was the method employed in financing these various sub-companies? A.—I think you have had that detailed as fully as I can give it to you.

Q.—I just want it in outline. I have some details about it? A.—The money was advanced by the Union Trust Company and loans were made to Messrs. Fowler, McCormack and Irwin and when Irwin dropped out to Messrs. Fowler and McCormack and their stock—their obligations—

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Q.—I rather meant in the operations of these various companies how were they financed? A.—The operation of them was financed in two ways; by the receipts that came in, and advances made as, of course, is necessary where you cut one year and sell the next.

Q.—But the advances, of course, were always made from the Union Trust Company? A.—Always made for the Kamloops Company, yes; if the Kamloops Company had not the funds the Union Trust Company advanced to the Kamloops Company, and held the Kamloops Company therefor.

Q.—After the acquisition of the Okanagan property, that company was also financed? A.—Similarly.

Q.—Similarly, but through the Kamloops Company? A.—Yes.

Q.—Then the account in connection with the Kamloops Company assumed a very considerable proportion? A.—Large proportions for the reasons named by Mr. Stevenson in his evidence. These things never do, as a rule, go as they expect them to go.

Q.—They always grow? A.—And there are delays in sales that sometimes you did not conceive would take place, drops in prices that you had not thought of, and on the other hand there come rises in prices that you were not aware of and one of those rises has come lately.

Q.—And now the prospects are all right? A.—I think the prospects were always all right.

Q.—There was a very considerable outlay and no return for a time? A.—Yes, owing to those circumstances I have spoken of, or that Mr. Stevenson has spoken of.

Q.—And with those vicissitudes in view, perhaps, you would not think that a proper investment in the future, perhaps experience would prevent you from doing that sort of thing again if you were in charge of trust moneys? A.—Well, experience would, but on this ground, that it is an unmitigated trouble and nuisance to manage the commercial affairs of two or three mills, a company in British Columbia, making its sales all over the North-West, and to try to do it from this centre. It costs in trouble more than it comes to and I would never advise an investment of that kind again. Chiefly on that ground, but I never had the least doubt at all that the properties we bought were immensely valuable and that they

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would return us a very large return from our money if we chose to keep them and could carry on the business fairly well.

Q.—You have always taken the sanguine view? A.—I have. There would not be much business without that.

Q.—Well, that depends. People who are in charge of their own moneys are different, perhaps, in that respect from people who are in charge of trust funds? A.—Well, hope is the foundation of almost every venture.

Q.—But that is a distinction which, so far as you are concerned, you do not admit in this case, the distinction between a person's own funds and trust funds? A.—Oh, I never lose sight of that, certainly not.

Q.—But you do not consider the funds of the Union Trust Company as trust funds? A.—Well, I have already stated my position on that. I do not suppose there is any use going over it again.

Q.—Then let us go into another matter. Who first introduced to you the subject of the North-West Lands, which resulted in the formation of the Great West Land Company? A.—The formation of the Great West Land Company? You do not mean the other lands of the North-West?

Q.—Not yet? A.—Well, as far as my recollection goes I first became acquainted with the lands that were taken into the Great West Land Company, through certain gentlemen connected with the New Ontario Town and Farm Site Syndicate.

Q.—Tell me who these gentlemen were? A.—Before that will you allow me to make one statement?

Q.—I have not stopped you from making any statement, I think? A.—I know, and I have never made one without asking you, Mr. Shepley.

Q.—Go on? A.—That statement is this, that so far as the acquisition of those lands from the C.P.R. or any negotiations which led to the acquisition, I have no knowledge of them, no interest in them, and had nothing to do with them, good, bad, or indifferent. I was not on that excursion; I did not talk with anybody about them; I did not know of their being selected. My first intimation that there was a block of land like that in the hands of Pope and Fowler, as trustees for a syndicate, was when it was brought to my attention by members of the Ontario Town Syndicate.

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Q.—When you say members of that syndicate, tell me who you mean? A.—Well, the members of that syndicate, so far as I recollect them—you do not want the names of all the members—take the active members we will say. The active members of that syndicate whom I knew, were Mr. Dale—or Hale?—Dale. Were Mr. Dale, Mr. Van Dusen, Mr. Dinnick.

Q.—I know now who you mean; you mean the people who had formed a little company and had subscribed each one share of stock; with five shares of stock in it. That is the people you mean? A.—There were five of those who had the one share of stock each, but there were also other gentlemen connected with it, in what way I cannot now say, but these other gentlemen whether they owned stock of that syndicate or not, were with them and all the negotiations were carried on with the two combined. At this present moment I cannot say whether they had stock of that company or not.

Q.—What I want you to make clear is that you are not now speaking of Mr. Fowler, Mr. Pope and their associates? A.—Not at all.

Q.—You are speaking of the little corporation which became the Great West Land Company? A.—I am.

Q.—And it was those gentlemen who first brought this land to your notice? A.—Yes.

Q.—Was it brought first to your notice in your capacity of General Manager of the Union Trust Company? A.—Not at all.

Q.—Or in connection with some other capacity? A.—In my personal capacity. I think it arose in this way.

Q.—You were an officer of another corporation, were you not, with whom negotiations were had for the purchase of these various lands? A.—I was Manager of the Union Trust Company.

Q.—But you were an officer of another corporation, were you not? A.—No.

Q.—A Manitoba land company, you do not recollect that? A.—Oh, I never was.

Q.—I will have to go into that a little more in detail? A.—I never was an officer of the Manitoba Lands Company, or any land company in Manitoba.

Q.—The Saskatchewan? A.—No.

Q.—That we will come to again. It is a little diverging now. In what form was the proposition first com-

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municated to you? A.—I think it arose in this way, as far as my recollection goes, that some of the gentlemen who belonged to the Town Site Syndicate came to me and spread their proposition as it was at that time. They had options and part ownership on certain properties. Amongst others was an option, I don't know how secure it was, on Nipigon Town Site, and the like of that. They felt they had a good thing in that. They wanted help in the way of managing it and financing it and they asked me to come over, after I think Mr. Dale had seen me and had brought me a plan and the like of that, and I talked it over with them and I came to the conclusion that the properties they had were not worth while going into, I did not see much in the matter in so far as they possessed rights or options on properties at that time.

Q.—Up to that time there was no talk, perhaps no knowledge? A.—None on my part.

Q.—Of the proposition that Pope and Fowler were concerned with? A.—None on my part. After that had been stated I think it was Mr. Dale introduced to me this proposition about the North-West Lands that Pope and Fowler and Lefurgey had. They had been in communication with Mr. Lefurgey, maybe with Mr. Pope and Mr. Fowler, I don't know but what they had got in communication with them and they practically were negotiating for that option. That is the first I knew of that. When that was explained to me I felt that if that could be taken hold of, that it was a proposition which had merit in it and ought to be a very good one. I talked that matter over with them. They however, were unable to finance it and it was about that time that Mr. McGillivray also was approached by them. They might have talked with them at the same time they did with me, but not together. At any rate I remember that Mr. McGillivray and myself met with them at their rooms on one occasion and talked over this whole proposition. Then Mr. Matthew Wilson came into it I think on my suggestion, but I am not sure about that; and then Mr. McGillivray, myself and Mr. Wilson talked over that whole matter with them and later Mr. Lefurgey and Mr. Fowler, and, I think, Mr. Pope as well. That is the course it took until it got to the point where

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I became seized of the property that they held and the price that they asked for it.

Q.—When you became seized, you mean when you learned? A.—Yes, seized of the knowledge, not of the property itself.

Q.—Then the three gentlemen you have named as Mr. McGillivray, Mr. Wilson and yourself, you were all, of course, officers of the Union Trust Company? A.—We were.

Q.—All on the Board? A.—All on the Board.

Q.—And Mr. Wilson the solicitor? A.—And I the General Manager.

Q.—Are you quite sure that the negotiations, so far as you were concerned, the first negotiations you had in respect of these properties were the negotiations you are now telling me about? A.—Yes.

Q.—You had heard of no other offering of the properties on somewhat different terms from those arranged with you? A.—Never, no. That was my first introduction to that property, and in that way.

Q.—Well, then, was it the hand—I put the question in a sort of imaginative form—of the three of you which practically moulded the course things took after they were introduced to you? For instance were your suggestions the suggestions which were carried out in the way of adopting the old charter and creating a new company? A.—Practically, yes. They were discussed but I think our views became the views of all.

Q.—Your views were the views which prevailed as matter of policy? A.—Yes. Whether they were our views exclusively or were equally the views of the others I am not going to say, but I am sure that practical unanimity was come to.

Q.—The syndicate which held the option from the C. P. R. wanted to sell? A.—Yes.

Q.—And wanted to sell at a profit? A.—Undoubtedly.

Q.—The little corporation—not speaking of it disrespectfully—was anxious to get its hand upon some transaction which would be profitable? A.—Anxious for business, yes.

Q.—And you, Mr. McGillivray and Mr. Wilson were the guardian angels of the two interests? A.—No, we took a sort of humble interest in it.

(Adjourned to 2 o'clock.)

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AFTERNOON SESSION.

Resumed at 2 p.m., October 3rd, 1906.

MR. SHEPLEY: I wish to state to the Commission that during the adjournment I had a telegram from Mr. Fowler, who tells me in the telegram that he is about starting east, which I suppose is intended to mean he is on his way here. Of course his not having been here has put us to a very great deal of additional trouble, and I am rather in doubt as to whether we should perhaps wait, but at all events that can be considered further more deliberately, but I thought it proper to state to the Commission that I have that word from him.

GEORGE E. FOSTER, examination continued:

WITNESS: Would you kindly bring up the last question you asked me, I am not quite sure that I understood it correctly.

Q.—I think I can reproduce it, that the three of you rather moulded the course the transaction took? A.—Up to that time you mean?

Q.—No, I mean after that time? A.—Then I will withdraw my answer, I will say that as far as the negotiations proceeded up to the time when we became unanimous to take over the option and had arranged those negotiations between ourselves you might say that our united influence had some weight, and that it was agreed to by the others, and that our policy was practically carried out, but if your question means to go further as to transactions afterwards then I would qualify that.

Q.—I think we were not misunderstanding each other before the adjournment because what I had rather in mind was the form the transaction took in the document—of course you had to agree about terms, but the form the transaction took, the extinction practically of the old corporation, the creation of the great corporation, the adjustment of the interests and of the stock and so on, that was all, as I understand you now, largely moulded by you three? A.—Well, there was practical unanimity.

Q.—Well, they came to you to finance the transaction? A.—They came to us to help them finance the transaction. We had our share in moulding the policy any way, put it that far.

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Q.—You were the men of business who controlled the situation so long as you were bargaining together? A.—Measureably so.

Q.—I will be content with that answer. I ask you again, as I asked you this morning, with regard to another matter, was there a deliberate weighing by yourself and your co-directors of the propriety of that transaction from the standpoint of men occupying your position, or was it thoughtless? A.—Up to that time I for my own part and so far as I know Mr. McGillivray for his part and Mr. Wilson for his part had no thought of making any application to the Union Trust Company or of endeavouring to get any financial aid whatever from the Union Trust Company. We were on an entirely different plan for financing the company up to that time and a considerable time afterwards, a few days afterwards.

Q.—Then I shall have to ask you to tell me what was the first financial plan that was discussed, and I apprehend you to mean adopted? A.—No, the first was not adopted. Mr. McGillivray, Mr. Wilson and myself procured a one-half share of that option; the Town Sites Syndicate and the gentlemen connected with them procured the other half of that option. Our first plan of financing it was this: Mr. Wilson, Mr. McGillivray and myself, were willing and able and ready to finance one-half of it, and we asked the other constituent part, consisting of the Town Sites Syndicate and the gentlemen with them, to finance their half of it, and for some time it stood that way under the impression that they would be able to finance their half. We proposed to finance our half for the first payments, they to finance their half for the first payments, and then to issue a prospectus and to sell stock or otherwise influence capital to take it up and be able to put it through in that way; that was our idea; that was the sole idea we had at that time.

Q.—You three were to become the owners of half the option? A.—Yes.

Q.—That meant that you would assume half the burdens of the option financially and otherwise? A.—Yes.

Q.—The result of that would be, as it always was, that you would have to refund to Pope and Fowler half of any moneys they had expended up to that time? A.—Not at all.

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Q.—Why not—you were taking half the option and the Town Sites Syndicate were taking the other half? A.—Yes.

Q.—You were stepping into the shoes of Pope and Fowler? A.—We assumed one-half the liability of Pope and Fowler; we had to assume one-half the responsibility.

Q.—Yes; whatever payments they had to meet on account of the land or option you would have to assume the burden of half of it? A.—Yes, the \$4.50 per acre for that land we would have to assume the burden of one-half.

Q.—And you would have to assume the payments to the Canadian Pacific? A.—That was included, the whole burden.

Q.—And you would have to assume the profit of \$1 per acre which the Pope and Fowler Syndicate were to make—I am getting at the financial burden you were undertaking? A.—The lands were sold at \$4.50 an acre, we would have to assume—that was divided between the C. P. R., the original vendors and Pope and Fowler, the second vendors for their profits—we would have had to assume one-half of the whole of that except with this one point to be put in, that they would take a certain amount of that in stock, which of course was not an assumption of a liability which accrued until the whole thing had been worked out.

Q.—Let us consider that proposition for a moment; can you tell me approximately what immediate or early maturing payments you would have to make? A.—During the first year we altogether would have had to have made a payment of \$141,666.66; that is my recollection, worked out that way. That would be distributed over one-half and a little more of the year. Then there would be a payment equivalent to that plus a certain amount of interest on the first July of the succeeding year.

Q.—You are including in that payment not only what had to be paid to the Canadian Pacific but had to be paid to Pope and Fowler? A.—The whole of it.

Q.—You say that you and Mr. Wilson and Mr. McGillivray were ready and able to finance half of that proposition? A.—Yes, we thought we were at least.

Q.—I disclaim any intention of being inquisitive, but I want to know whether you yourself were financing your part of it or expecting to, or whether you were expecting to be as-

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sisted? A.—I think you quite know that already in the evidence that has been given, Mr. Wilson and I had our own arrangements as to that, and as regards Mr. Wilson's share and mine we were prepared to finance it. Mr. McGillivray we understood would make preparations for financing his. I can only speak as to Mr. Wilson and myself.

Q.—You have told me of your own financial position as having been an embarrassed one? A.—Yes.

Q.—Was Mr. Wilson to finance it for you? A.—That has been told in the evidence.

Q.—I want your confirmation? A.—If you want me to say so, yes; it is an awful thing to be poor sometimes, you know.

MR. KENT: Disagreeable at least? A.—A man does not want to be reminded of it too often.

MR. SHEPLEY: Q.—Why did that plan fall through? A.—Because the other parties to it were not able to finance their half.

Q.—That is the Vandusen? A.—The others.

Q.—The Town Sites Syndicate people were not able to finance their half? A.—Yes, and at first they thought they would be. After things had gone on for some time they came to the conclusion they would not be.

Q.—And did they reach that conclusion, and did that plan fall through before the large corporation had been formed? A.—The large corporation, by which you mean the Ontario Town Sites Syndicate—

Q.—The re-organized Ontario— A.—Was already formed, that was an incorporated company.

Q.—With five shareholders, each holding one share of stock, as we know? A.—To my mind it made no difference whether there were five shareholders or fifty, whether they had any property or not. Mr. McGillivray, Mr. Wilson and myself, as you see by the agreement, undertook to see the matter was financed through and we had to finance it through either by a new company—

Q.—I am rather trying to find a date, there was a time you know when there was a complete re-organization of the Town Sites Syndicate? A.—Yes, that has been imputed to us as a fault.

Q.—I am not making any imputations about anything; was that re-organization before or after the orig-

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inal plan was abandoned? A.—Well, as far as my recollection goes.

Q.—In other words I want to see whether that was part of the original plan or whether it was part of the substituted plan? A.—No; as far as my recollection goes the re-organization and the final solution of the problem for them as to whether they could finance it or not went on at the same time, and as soon as we found that they were not able to finance it the re-organization plan was carried out, to my recollection it had been talked of, and it was meant that new blood should be infused into the old corporation and a certain number were quite willing to give place to new ones that came in.

Q.—You put that very well, it was intended to infuse new blood into the old corporation? A.—That was the idea.

Q.—Now, I gather that re-organization and that infusion of new blood was part of the original plan—you told me a moment ago you were going to sell stock? A.—Yes.

Q.—So as to cover future payments? A.—I think that a re-organization at least to the extent of the infusion of a certain amount of new blood was contemplated from the first after we talked over the business, even before we discussed the question of taking the North-West lands.

Q.—At that time when you were discussing the taking the North-West lands you have told me part of the original plan was to sell stock? A.—Yes.

Q.—Sell a good deal of stock, a large quantity of stock? Enough to finance the proposition? A.—Enough to finance, yes.

Q.—Was there any discussion as to the retention of a controlling interest, or were you going to put the stock before the public so that you would lose the control—was that discussed? A.—I do not think so.

Q.—You do not think you got so far in your discussions as that? A.—Our idea was to sell sufficient of the stock to enable us to finance it, and then stop the sale of the stock when we got that far. I do not think the question came up as to control or not, although it is very natural that we who went into it would either by buying stock or in some way or other try to keep the control.

Q.—I perhaps have missed it, but the first proposition left you and the owners of the new Town Sites Syndicate partners upon an equal footing,

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that is you were not making any intermediate profit on that proposition, each of you was taking half the option and you would share equally in the profits? A.—That is right.

Q.—And the Union Trust Company at that time was not in your minds at all? A.—Not in the least.

Q.—You have not had much opportunity to refresh your memory at all, but we have information and it may be all wrong, that a proposition somewhat similar to that was before you in another capacity—what relation have you to the Saskatchewan Land Syndicate, were not you an officer of that? A.—What do you mean?

Q.—Was a proposition that was very much like the one you were discussing for the new Town Sites Syndicate before some company with the name of Saskatchewan in it I have forgotten the whole name—were you a Vice-President of some land company? A.—I am a director and Vice-President in a Company called the Ontario and Saskatchewan Company.

Q.—Our information may be quite wrong, was the proposition of carrying this option before that company? A.—Never.

Q.—Never was? A.—No. I think I know everything that came before that company.

Q.—That is what you told me this morning and you are much more likely to be right? A.—They stood upon a very different basis, came in with an entirely different thing.

Q.—We know it did not go there, but perhaps later on we will return to that? A.—No, I am certain of that.

Q.—We have the position of the matter at this stage, you, Mr. Wilson and Mr. McGillivray had formed an entirely independent syndicate for the purpose of going into partnership with the Town Sites Syndicate on equal terms? A.—Yes, and to all become the members of one company.

Q.—But there was no idea then, as you have told me, that the one-half or the carriers should make any profit at the expense of the other half of the carriers? A.—No.

Q.—That dropped through for the reason you have told me, what was the next stage of the negotiations or in the formulation of the plans of yourself and your associates? A.—When it became definitely known that the other side—I will call them—were unable to finance their own then the proposition was made to us by them. We have certain rights, we have got

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a charter, we have certain properties and we have a sort of good will, we have half of this option, we cannot raise our part to finance this in equal shares of one-half, what you had better do is to buy out the other half the option from us, the charter, good will and all our rights. That in brief I think covers what was the result of a good deal of talk, and we accepted their proposition, and sat down together to decide on a basis. We acknowledged that they had been for a good while bothering and troubling, and at expense with reference to this thing; we acknowledged that they had the one-half option; if our half option was valuable their half option was equally valuable. They looked upon it as being valuable and we looked upon it as being valuable, but if they could not finance their half of it it was less valuable to them than we looked upon ours as being to us; consequently they were willing to come to an agreement, and after conference backwards and forwards the agreement which was put into documentary shape was agreed upon, and they handed over the other half option, and the charter and the good will and we said "We do not want any of your options or anything of that kind, outside of that," we did not think that those would be well to take into the company, and we made the arrangement as shown by document of a certain date which is no doubt in your hands.

Q.—I want to look at that? A.—That is my impression, we will see when you come to the document.

Q. This perhaps is the document you mean? A.—That is the document, 4th June, 1903.

Q.—At the time that document was prepared they were parting with to you their one-half of this option? A.—That is my understanding of it.

Q.—With one-half of whatever asset their company with its good will and chances might be considered to be? A.—Simply good will and chances, we did not bargain for nor care for any options they had held individually or as a company, and we did not have anything to do with them.

Q.—Had there been prior to this any written agreement between you and them upon the subject of the ownership of the option? A.—I do not know of any, if it is not in those documents I do not think there was.

Q.—You think it was a mere matter of personal understanding as to how you were going to do it? A.—Until it was crystallized into that document.

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Q.—The consideration that was to pass for their half option is fully set out in that document? A.—In that document and another document of maybe the same date.

Q.—The one in which they define their own interests? A.—Yes, amongst themselves.

Q.—That was a matter of indifference to you of course? A.—Altogether, it was a distribution of what we gave them among themselves.

Q.—Those are the two documents, of the 4th June, 1903, which are respectively Exhibits 484 and 485? A.—Yes.

Q.—At that time apparently the Union Trust Company had been introduced into the matter, that is right, is it not? A.—That shows in the document, does it?

Q.—I do not know that it does show in the document we have been speaking about? A.—My impression is this if you have not it clear, that the Union Trust Company first appears in the simple form of a trustee to whom the option which Pope & Fowler had to these lands was assigned in order that it might be handed over to the proper party to it after these parties had fulfilled the requirements and conditions. The Union Trust Company came into it simply as a trustee, but not in any sense in our minds or in fact as a financial helper in the transaction. I do not know the significance of documents, but that is my view of it, that is simply a trust which we very naturally had handed over to our own company.

Q.—We will take the dates; you were at all events approximately right as to the first form as to the first light in which the document presented the Union Trust Company, that was by document 30th May, 1903, made between Pope and Fowler on the one hand and the Union Trust Company on the other hand, called the trustee? A.—Yes.

Q.—I think at that time the real owners of the option under Pope and Fowler do not appear anywhere in the documents? A.—I do not think they do.

Q.—At that time, which was on the 30th May you were still expecting that the two parties would finance? A.—Yes, or that it would be financed in some other way.

Q.—At all events at that time you were not intending that the Union Trust Company should finance? A.—No.

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Q.—The document you referred to of the 4th June? A.—22nd June.

Q.—An intermediate document of the 22nd June is one to which I now call your attention? A.—Yes.

Q.—Had there been any change between the 30th May and 22nd June in your intentions with regard to financing through the Union Trust? A.—Between 30th May, which was the date of the option, was it?

Q.—That is the date of the conveyance of the option to the Trust Company as trustee? A.—And the 22nd June; yes I think there was; I think the change of plan took place between those times—at what particular period I do not know—I think that must be so.

Q.—On the 22nd June, which is two days before the conveyancing you have spoken of, your plans had manifestly matured in the direction which they afterwards followed—this is the agreement between you three of the first part, and the Union Trust Company of the second part, called the banker? A.—Yes.

Q.—That looks like finance? A.—Yes.

Q.—And these gentlemen who were the shareholders of the New Ontario, that is the new shareholders, having taken over the shares from the original stockholders? A.—Yes.

Q.—That is the doctor, Sir John Boyd, Robert Rogers, Mr. Scholfield, Foster, McGillivray and Wilson, hereinafter called the shareholders of the third part, and the company itself of the fourth part—I do not want to protract time by going through all, but I want you to be quite clear before we come to the next stage that at that time your plan involved financing through the Union Trust Company—there is no doubt about that? A.—That is apparent on the document.

Q.—How had that come about, how had your minds turned to the Union Trust Company as the banker? A.—What was the date of the agreement with the syndicate?

Q.—30th May? A.—No, that was the option, 30th May.

Q.—Of the 24th June, two days later than that? A.—No, that is not what I want. It is the 4th June, this is the original.

Q.—Yes, that is right; what you say now is between the 30th May and 4th June when this conveyancing took place there had been no change looking towards bringing the Trust Company in as banker? A.—No, I do

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not think at the date 4th June, 1903, there had been any change.

Q.—That is what I am saying, there had been no change between the 30th May and 4th June? A.—I do not think so.

Q.—How were you then expecting to finance? A.—The situation was exactly this, we were now in possession of the whole option, and we had the whole of the stock represented by the advance of fifty cents an acre at our disposal to be used first to extinguish the claim of the other half by the good will and the like of that, reserve one-half which we always intended to do for ourselves, leaving us a considerable portion, amounting in all to 337 shares or thereabouts. We proposed with that at our disposal to enlist capital sufficient to help us make what was necessary to be made in addition to what we ourselves put in to carry us along until stock could be sold and returns come in from that.

Q.—That would be \$33,700 if you issued the stock at par? A.—Yes, if the stock were valued at par, and we believed that this would be an inducement sufficient to enable us to finance it. This thing is to be borne in mind in talking about financing that particular scheme; we did not take in as a finality that we would be obliged to raise \$964,000, \$980,000 or a million dollars. Our anxiety was how to finance that for the first two or three years, under the impression, which we strongly held, and which I never wavered in, that in the course of three years' time, maybe less, we would be able to have that in such a condition that it would absolutely carry itself for the remainder of the term. We did not have to pay that money all down at once; it was yearly payments, consequently we had as the first hump to get over to make our payments of \$141,000, which would carry us for a year. Then came our inducements to financial men if we were successful in holding them out, and then came a year's work at stock selling, and it was not beyond the limit of what seemed reasonable that we might raise sufficient to meet our second payment, which would give us still another year when we believed the financing would be easy, because of sales that could be made. We did not take that land with the idea of making inordinate profits upon it, we knew what we had selected, we knew or thought we knew that there was no

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more eligible piece of land in the North-West than that block. Well, the circumstances, which I suppose are the best proofs when time brings them to their fruition has proved that three years after the time of the signing of that contract that company had sold sufficient lands to make its financing absolutely secure for the rest of the term if it had been done on the ground and lines of yearly payments. That was a view that we held.

Q.—You have got somewhat in advance of my question? A.—I wanted to get that in so that we would think of it as we went along.

Q.—So that it might be present in our minds as an element? A.—It would minimize the difficulties of financing compared with the proposition. Are you prepared to raise \$980,000?

Q.—We will talk about somewhat smaller figures, what you had expected to do with the New Town Sites Syndicate was to finance half of \$141,000? A.—Yes.

Q.—You were expecting to finance the whole of it now with an assistance to the extent of \$33,700? A.—Yes.

Q.—That is right, is it not? A.—Yes, stock selling in both instances as a factor.

Q.—The stock selling, the \$33,700 was the stock selling you were relying upon? A.—Not at all, that was the bonus, after keeping our own share.

Q.—I thought that was to interest financial people? A.—Well.

Q.—You mean handed to financial people by way of bonus so that they would advance money? A.—Exactly.

Q.—We are at the 4th June and that was the condition of affairs then; up to that time the Union Trust Company merely holding as trustees? A.—Absolutely so.

Q.—Without any idea that the Union Trust Company would be called upon to finance? A.—Yes. I can speak only absolutely for myself, but for myself I do speak and I believe too with respect to the others.

Q.—Who first suggested, how did the suggestion first come to be made that the Union Trust Company should find the money? A.—I will tell you that. It is necessary for me just to review the proposition that we had, or that we thought we had. We had to make up our minds as to what we thought we had. I have probably as good knowledge of the North-West as most residents down here. I had had a good deal of experience with re-

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ference to the lay of the land, where the better lands were, what were the eligible localities, and the prospects for railroad transport, which is an element in it. When that proposition was brought to me, and I found that we could get that at the rate of \$4.50 per acre, taking into consideration the belt along which those lands lay, taking into consideration the proposed Canadian Northern Railway which was actually projected and partially built and almost entirely surveyed though not for the specific location, it commended itself to me as being one of the most eligible offers of land that I had known in the North-West. With the certainty of that road being built and completed within a year or year and a half at the most, with the land at the price that it was, we believed that it was a very money-making proposition. Now when we came to the point where we had left the idea of each half financing his own, and came to the point of seeking other finance in the way of stock selling and the actual advance of money for stock with bonuses as part consideration or in any way in which it could be used, before we had gone any distance in that at all, though we had talked over some plans, either Mr. McGillivray suggested to me or I suggested to him—I am not going to say which, but one of us to the other—and whichever did the other agreed to it, this idea: We believe this is an excellent thing, we believe that a good amount of money can be made out of it, we have a bonus stock free of 337½ shares, our Union Trust Company is a lending company, why not take this to the Union Trust Company, put the proposition before them, and ask them whether they will take it up or whether they will not. Now I fell in with that proposition, so did Mr. McGillivray. Mr. Willson objected to that on the ground that he feared the rate of interest which would be charged by the Union Trust Company, so far as he was concerned he could finance his portion of it at a much smaller rate of interest than he thought they would charge. Ultimately we all three agreed to take it to the Union Trust Company. Now, Mr. Shepley and to this Commission, I say it is not necessary to think that if that thought came into our minds and we acted on it that we acted on it as sharpers, as men who intended to do the Trust Company out of its funds, or from any other reason than a fair,

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square business arrangement, business reasons, and I unhesitatingly affirm that I had no other thought in the matter than on that line. I said to myself, This is going to pay well to any financial institution that will take it up, take the bonus, lend the money to us at a good rate per cent., and take the whole thing as security, and in three or four years it will have made an excellent profit for itself on undoubted security. It was under that idea and that idea alone that we took it open and above board to the Union Trust Company without any hole and corner work of any kind, and presented it to the members of the Board.

Q.—Now then, may I ask you a question or two? A.—Certainly.

Q.—Your idea was to substitute the Union Trust for the financiers you hoped to interest by giving them the bonus stock? A.—Yes.

Q.—The Union Trust Company were to get the bonus stock and lend the money that was necessary by reason of their getting that superior position? A.—They were to get the bonus stock, or as much of it as was necessary, when they thought it over as a fair proposition for their undertaking the loan. We had that much at our disposal.

Q.—It was intended that the Union Trust Company should occupy the position of lenders? A.—That was our mind at that time.

Q.—And in consideration of their occupying or consenting to occupy that position they were to have the stock with which you had hoped to interest other capitalists? A.—Yes.

Q.—It was rather in the light of a benevolence to the Union Trust Company that you viewed the transaction? A.—No, it was as we thought it good business for any company.

Q.—And in view of what you have told me I suppose I may assume that it never occurred to you, so far as you are individually concerned, to question the propriety of the position at all? A.—I did not question the propriety, if I argued it at all I argued it in this way: it is one function of the Union Trust Company to lend money at an agreed rate of interest upon the security of real estate, on such security as in its judgment it thinks is sufficient. I could not see any difference between lending \$6,000 on a thousand acres of land if it were approved as security and the rate of interest were good. I could not see any business difference between that and the lending of say three or four

hundred thousand dollars on a comparatively larger area of land, provided, they, the lenders considered that the security was ample security, and of that the directors must always be the judge. That, if any reasoning passed through my mind was the reasoning that passed through it.

Q.—If any did? A.—Yes.

Q.—But I rather take it from what you told me that you entertained such a high opinion of the merits of the proposition itself that you rather thought you were conferring a benefit upon the Union Trust Company than subjecting them to any disadvantage? A.—We certainly did not think we were subjecting them to any disadvantage.

Q.—I should also gather you did not at all view the matter from this standpoint that you yourselves were members of the Board which would have to judge upon this proposition and pass upon its various phases from time to time? A.—Yes, we considered that.

Q.—How did you come to consider that, who raised that question? A.—That consideration was in our minds, we quite well knew all the time that we were members of the Board of the Union Trust Company. Up to that present time we had a perfect right to do as we had done.

Q.—You were fully alive to the general objection to directors occupying dual positions? A.—I think we thought of that.

Q.—Do you recall as a matter of memory you did? A.—I do not recall any discussion of it; I imagine that we were—

Q.—If you thought of it you were alive to it? A.—I dare say it was present to our thoughts.

Q.—But you cannot be sure you did think of it? A.—Cannot be sure we discussed it.

Q.—Or that you thought of it? A.—I do not know whether I thought of it or not, I presume I did.

Q.—But you have no recollection upon the subject at all? A.—As a matter of general—

Q.—Is this fair to say that your opinion of the inherent merits of the proposition was so high that other considerations seemed to be of trifling moment? A.—They were so high that the element of risk was practically eliminated from our minds as far as it can be eliminated from any proposition.

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Q.—I was not asking about the element of risk, I am asking you about other considerations. The proposition appealed to you so from its intrinsic merit that your attention did not travel in the direction in which I am now questioning you? A.—I do not think it travelled very extensively in that direction.

Q.—Did it at all? A.—I cannot say whether it did or did not, I imagine it was present with us, we were all three intelligent men and we must have had opinions with respect to these things.

Q.—It may have been present to you, but you say it was not discussed? A.—It was not a bar to our taking the proposition.

Q.—I am not trying to find out whether that question of the propriety of it from that standpoint was discussed and deliberated and weighed, I take it you have said no to it? A.—I do not think I will say no to it from this consideration—

Q.—It is a fact or it is not a fact, it either was deliberated or it was not? A.—I am not going to wink an eye at the fact at all. There is a modifying condition which let me state to you first, and then your question will probably be easily answered. I think we did have present in our minds the advisability of carrying the proposition through the Union Trust Company in which there were gentlemen who would be interested in both companies as directors—I think we did have that in our minds, and what recalls that particularly to my attention is that before the proposition was so far discussed as to come to a conclusion that question was raised and we discussed it and we took advice upon it. I think that is a fair answer to the question as to—

Q.—That is rather in connection with a subject which is quite analogous but not at all the subject that I am speaking about, that is in connection with joint directorates upon the two Boards, I am speaking of your proposition as beneficiary owners of this option; and taking it to and dealing with the Union Trust Company about it, that is a different thing altogether? A.—No, we did not see anything improper in taking it to the Union Trust Company and allowing the Trust Company to deal with it as it thought proper.

Q.—Again you are disregarding the dual position which I am trying to direct your attention to, and I want

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just as a fact whether that dual position was considered and weighed and deliberated upon by you or not—I think you have said twice it was not, it is only the fact I want? A.—I cannot recollect that we sat down and discussed it, and yet I would not say we did not discuss it among ourselves; I know that what I have said to you was in our minds.

Q.—In your minds? A.—In my mind at least.

Q.—Will you go so far as that? A.—That we will take it to the Trust Company and the Trust Company could exercise its own wish in the matter.

Q.—You won't go so far as, however, to say that you deliberated in your own mind about that, you were so satisfied with the merits of the proposition? A.—I was satisfied with the merits of the proposition.

Q.—You were so satisfied that other considerations seemed to be of trifling moment? A.—I do not know that I would say that.

Q.—What do you say to it? A.—It would be the great element in any proposition you would take to your company how you felt the element of risk was very largely out of it; it certainly would.

Q.—Would that and did it as a matter of fact in your mind at that time over-shadow these other questions of morals, ethics? A.—I daresay the fact that we were convinced that it was a safe and excellent proposition weighed with us.

Q.—Won't you go further than that and say it so weighed with you that the other considerations were lost sight of? A.—No, I won't admit to you that they were lost sight of.

Q.—Do you want to modify the answer you made that they were not discussed? A.—I will put that answer this way, and that is as near as I can come to it, that I do not remember any form of discussion, yet I would be very loath to say it had not been talked over between us.

Q.—You do not remember any discussion either formal or informal as a matter of memory? A.—It is a long time ago, as a matter of memory I cannot say.

Q.—You took it to your Board? A.—Yes.

Q.—Was that the next stage in the matter that you laid the proposition before your Board? A.—That was the next stage.

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Q.—Who were present when the matter was laid before the Board besides you three? A.—That I cannot tell unless you turn up the minute; I know who was at the Board when the decision was made.

Q.—I see here a minute of meeting held 3rd June, 1903, at 10.30 a.m. That antedates the two agreements of the 4th June? A.—Yes.

Q.—So that although—I won't at all criticize your answer, because it is quite possible the formal documents were not drawn—although the understanding was, as you have stated, but at all events before the 4th June you see the matter had been brought before the Board. Present were Oronhyatekha, M.D., Sir John Boyd, Hon. George E. Foster, Matther Wilson, Colonel McGillivray and Colonel Davidson, the three of you were half of those present? A.—If there were six there three would be half.

Q.—Sir John Boyd has said that he was told, and that he always understood, that the gentlemen who were carrying the proposition before the Board were putting up their own money—you have heard him perhaps say—were you here? A.—I think he said that, I did not hear his testimony very distinctly, and I have only read it over in the paper afterwards, but if you say that is what his evidence was, I have no doubt of it.

Q.—If you have any doubt about it we will turn up the record of the Commission? A.—No, I have no doubt.

Q.—What do you say to that, that it was always present to his mind, and he was a member of the Board, that the gentlemen coming to the company for assistance had put up their own money? A.—I cannot explain his idea with reference to it; if he says that was his idea I should not dispute it, but what I will state is this, that in all the dealings of the Board that took place nothing was held back, every answer was made to every question that was propounded, and so far as I am personally concerned I never stated anything else than what was exactly the facts in the matter.

Q.—According to the minutes you were the person who laid the proposition before the Board? A.—Yes.

Q.—You yourself did that? A.—Yes.

Q.—Had you anything in writing, or was it just in words you laid the proposition before them? A.—I imagine simply verbally.

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Q.—It was not in the shape of an application or anything of that sort written, but you think it was just verbally? A.—I could not say, but I should judge that it was simply verbally.

Q.—This is what the minute states, eliminating the second proposition, with the Eastern & Western Land Corporation: "The Manager laid before the Directors two propositions for investment in land in the Northwest, which were approved in principle; the first in reference to the New Ontario Farm & Town Sites Syndicate Land Company"—that is this proposition, and the second in connection with something else—"First, to loan to the New Ontario Farm & Town Sites Syndicate Land Company, Limited, capitalized at one million dollars, on the security of the lands and assets a sum of money not to exceed \$140,000, at a rate not to exceed 6 per cent. per annum. The Union Trust Company is to have the option of taking fully paid up stock at par for the whole or any part of its advances and interest thereon, and is to receive in addition as a bonus 237½ shares \$100 each par value of the paid-up capital stock of the company"—that is all there is about that. That was approved in principle—can you remember the discussion that took place, or was there any discussion? A.—I imagine there was a full discussion of it, I cannot remember what it was.

Q.—When you and Mr. Wilson and Mr. McGillivray were convinced of the desirability of any particular policy and came to the Board to submit it and to advocate it were not you practically rulers there? A.—No.

Q.—You have told me this morning that you never remember an occasion upon which your policy was overruled? A.—What?

Q.—Do you remember any? A.—I told you this morning that?

Q.—I may be mistaken, I will ask you now, and let us not waste time over this matter? A.—I would say exactly the opposite, that I do remember times.

Q.—When you three were satisfied of a proposition and the other three would not let it go through? A.—I dare say that it took place over and over again.

Q.—Do you remember any instance? A.—No, I cannot remember a particular instance, but I remember the

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general rule, Mr. Shepley, which you will allow me to state again.

Q.—I think you stated that this morning, that does not affect the consideration I am urging upon you now? A.—Very well.

Q.—You were the General Manager of the company? A.—I was.

Q.—It was your duty, as General Manager, to be ready upon questions of policy with a policy? A.—I was.

Q.—And you did not fail in that duty at any time? A.—I made my presentations as best I could.

Q.—And you never presented a proposition that you were not satisfied with yourself? A.—I would not, no.

Q.—You never did. Mr. Wilson took an active part always in these Board meetings and in the transactions themselves? A.—Certainly.

Q.—And so did Colonel McGillivray? A.—Yes.

Q.—What does this resolution mean, did you keep the minutes? A.—I kept the minutes.

Q.—You probably will be able to tell me what this means when it says "This proposition was approved in principle?" A.—That to my mind would mean that the Board at that discussion approved of the principle of making a loan, but as to the condition no conclusion had been come to.

Q.—The proposition was definite enough? A.—Yes.

Q.—The money not to exceed \$140,000 at 6 per cent., and the Union Trust Company to have this option? A.—Yes.

Q.—Had you discussed this proposition with any of the individual members of the Board other than the three of you before the meeting that you can recall? A.—I cannot recall that I did.

Q.—Was that a thing that frequently was done? A.—Very often a member of the Board or two members of the Board would happen into the office and if I had any proposition on hand I would talk it over with them informally, make them acquainted with it. That was, I was going to say a daily occurrence, but it was a frequent occurrence, as is natural.

Q.—What you say is the principle of lending money on North-West lands was approved, that is lending money to the New Ontario Town & Farm Sites Syndicate? A.—Yes, to that particular proposition.

Q.—Can you recall whether at that meeting you discussed your own per-

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sonal interest in the proposition, or that of Mr. Wilson or that of Mr. McGillivray? A.—I think that when the proposition was placed before these gentlemen it was placed before them exactly as it was.

Q.—I am looking at the minutes, there is no statement on the minutes here that the General Manager and two of the directors are personally interested in the property upon which the loan is requested, and I just want to know whether that was mentioned and discussed, if you recall? A.—It was both mentioned and well understood and discussed.

Q.—At this meeting? A.—I have no doubt about it.

Q.—You remember it as a matter of memory? A.—I cannot remember as an individual circumstance, but I have no doubt about it.

Q.—But you do not recall it as a matter of independent recollection? A.—No.

Q.—Who was it, because you have not told me that as being part of the plan up to the present moment, who was it suggested this option of turning the advances into capital stock? A.—That I do not know, I do not recollect.

Q.—Was that part of the plan which you took there to submit? A.—I should be inclined to say it was not, because when we three took this proposition up with an idea of taking it before the Board our idea so far as I can recollect was a simple loan for the first payment, then it is probable that the way that came out in the discussion of it, the question was put, well, either a loan for part or the whole or stock for part or the whole or an option and that in the course of discussion that was brought out; I think that was it.

Q.—You think that was the course of the discussion at that Board meeting? A.—Yes.

Q.—It is put there in the minute as part of your proposition? A.—That may be, but I feel clear on that point, that our original idea was simply for a loan for the one payment.

Q.—I understand that was your original idea, but can you be clear that had not become modified by the time you came to this meeting? A.—I do not think it had. I would say that that probably arose during the discussion of the proposition.

Q.—Did anybody suggest any objection to that as a matter of principle

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having regard to the relationship of you three gentlemen to the company? A.—So far as I recollect with reference to that the question was raised as to whether it was a transaction in which the Union Trust Company could take a part and make this investment, and that on that part of the question it was referred to Sir John Boyd and Mr. Wilson to look into the legal phases of the matter and give us their opinion.

Q.—That does not appear upon this minute? A.—I don't know.

Q.—Do you recollect your discussion just as you have stated it, it was a discussion as to the powers of the Union Trust Company? A.—Yes.

Q.—That is not at all what I have in my mind, or what I am directing my question to; as directors for reasons which we have discussed already, you would have a voice in saying whether the option should be exercised to take the stock or leave it alone? A.—We would have a voice, and theoretically we would have an influence in determining it, but practically I want to repeat what I have repeated before, that in no single instance that I recollect of did we depart from the rule that we would take no investment with which the Forestic part of the directors were not agreed.

Q.—Again we have got a little away from the point, I am not talking about it as a question of investment, I am talking about it as a question of principle, theoretically you say you have a voice, practically you say your good habits prevented you from exercising that voice at any time to the prejudice of the company? A.—I would not put it on the ground of good habits, I would put it—

Q.—You say that the power that was susceptible of abuse was not abused in this case? A.—I absolutely say that.

Q.—You agree then it is a power which is susceptible of being abused? A.—I do.

Q.—Did you discuss at this meeting or at any time with reference to the option? A.—I cannot recollect the particulars of the discussion, that is absolutely impossible for me to do, but I should say that that question was taken up with other questions in the general discussion, which was a prolonged discussion, it was thought of over and over again and discussed over and over again.

Q.—The question of the power of the company was discussed and Sir John Boyd thought the company had power

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to enter upon it, everybody consented and knew all about it? A.—Yes.

Q.—I am not at all concerned now with the question of the power of the company, I am talking about a matter in which I assume the company has full power, I am speaking of the directors who may be interested in one event in inducing the Board to elect one way and in another event inducing it to elect another way? A.—Theoretically that is undoubtedly true and abuses might occur, but such was the principle of action and the peculiarity of this organization that the general rule that I have spoken of was implicitly obeyed.

Q.—There is just one other feature that I want to ask you about in this minute, it is quite clear by the minute that the proposition to the Trust Company was that for its generosity in lending, for its confidence in the proposition by advancing up to \$140,000 at 6 per cent. it was absolutely to own 337 shares of paid up stock? A.—That does not appear, I think, in the—

Q.—In the minute? A.—In the transaction.

Q.—This is the minute: "The Union Trust Company is to have the option of taking fully paid up stock at par for the whole or for any part of its advances and interest thereon, and is to receive in addition as a bonus 237½ shares of \$100 each par value of the paid up capital stock of the company? A.—That is right.

Q.—It does appear in the minutes? A.—I understood you to say 337.

Q.—I dare say I did? A.—That was our only point of difference, but with regard to the 237½ shares—

Q.—This is not dialectics at all, we are trying to get at what the facts were; "237½ shares of \$100 each par value of the paid up capital stock of the company"—was to become the absolute property of the company? A.—Absolute.

Q.—This was followed by the conveyancing we have seen? A.—In the document of the 22nd June.

Q.—What was to become of the other stock at that time, was it intended that the Supreme Chief Ranger should have some shares? A.—It was not as far as I am concerned.

Q.—That was not contemplated? A.—No.

Q.—It was contemplated that Sir John Boyd should get a thousand dollars of stock? A.—Yes, ten shares.

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Q.—That he should get that as a bonus? A.—Qualification for director.

Q.—It was a bonus advance—he was not to pay? A.—No, it was our stock, he was given that stock, ten shares, to qualify him as a director.

Q.—Did Colonel Davidson get any equivalent advantage? A.—He did not belong to it.

Q.—Was he getting some advantage otherwise out of the Union Trust Company, was he connected in a way that gave him an advantage with the Kamloops Company? A.—Oh, no; there was no question of saw-off or compensation.

Q.—I am not putting it that way, did he have a salary from the Kamloops Company? A.—He was a director of the Kamloops Company and received directors' fees, so also was I.

Q.—But there was no idea that the doctor should have any share at that time in your mind at all events? A.—No.

Q.—Had you announced as part of the scheme this giving of the qualifying stock in the land company? A.—Yes.

Q.—That was discussed? A.—It is so set out in the document.

Q.—It is set out in the document which was prepared, but it is not set out in the minute; that you say was discussed; then the next minute was after the agreement of the 22nd June, at that time all these rights had been settled in the formal agreement of the 22nd? A.—Yes.

Q.—We will just sum those up for a minute before we go on; you had control—I mean by you the three of you—had control subject to your getting rid of the pre-existing rights of the old shareholders in the new Ontario Town Sites, you had control of how much of the stock? A.—The whole of the stock was one thousand shares; five thousand shares went to the vendors as their advance in price as the lands went into the company at \$5.00 per acre instead of \$4.50; ten thousand went to the gentlemen with whom we agreed—

Q.—You are getting a little in advance of me—that is hardly accurate is it, because this Pope & Fowler syndicate were getting fifty thousand besides? A.—I am taking the whole of the advance stock at fifty cents, which made, as a rough calculation on the 200,000 or thereabouts, made one thousand shares, now the advance price that went to Pope & Fowler was not to come out of the company, it was

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to come out of that stock that we owned.

Q.—That is 50 shares? A.—Yes, that left 950 shares.

Q.—I am first trying to get what the constitution of your company was at that time; there was fifty thousand of stock paid up and in a sense bonus stock, though in another sense not, but fifty thousand for which no money had passed to the original holders of the option? A.—Yes.

Q.—They got or were to get \$150,000 in cash besides treating it as a \$200,000 block? A.—Yes.

Q.—Your syndicate were making the fifty cents on the dollar? A.—With the exception of five thousand.

Q.—With the exception of the fifty shares or five thousand dollars which was to go to the vendors? A.—And with the exception of what we had to pay for rights, charter, etc.

Q.—You had \$95,000 of stock that you could do as you pleased with? A.—No.

Q.—Subject to getting rid of the prior title? A.—Subject to agreement.

Q.—This arrangement of the 22nd June probably sums up the situation very fully; you have agreed “to procure, or procure to be allotted,” etc. (Reads.) “—parties following, that is to say: To the owners 445 shares, representing \$44,500”—that is the owners mean you three? A.—Yes, that is 445 shares which is 30 less than the half share, the other thirty having already been allotted to or were being allotted to us as directors, making 475 shares.

Q.—Then to yourself 17½ shares or \$1,750—why 17½ to you when Mr. McGillivray and Mr. Wilson each got ten? A.—Each had a separate allocation of ten shares, to make up the thirty which added to the 445 was the 475, that is one half share of the ninety-five thousand; that left seven and a half the property of Mr. Wilson, myself, and Mr. McGillivray, and to avoid divisions that was set off to my name.

Q.—On a trust? A.—No sir.

Q.—Beneficially? A.—Yes.

Q.—That is to avoid divisions you got seven and a half shares more than either Mr. McGillivray or Mr. Wilson? A.—Yes, that was only a little thing.

Q.—Mr. McGillivray ten, Matthew Wilson ten, to the banker 237½—that is to the trust company? A.—Yes.

Q.—To the doctor ten thousand? A.—Yes.

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Q.—Some time between this meeting held on the 3rd June and this 22nd June when this document was prepared, the doctor had been brought upon the scene, tell me about that, what was the origin of that—you have said you had no idea of anything of the kind at the time of the meeting? A.—My recollection of that is simply this, we set out with 237½ shares as the amount which we would give to the banker; that was in the proposition that first minute you read. That was all we intended to give the banker as a consideration for making the loan according to the agreement; that left when these others were apportioned one hundred shares, which was 100 shares of course of the stock belonging to Mr. Wilson, Mr. McGillivray and myself. The suggestion was made that those should be put in the name of Dr. Oronhyatekha.

Q.—Who made the suggestion? A.—Well, so far as I can recollect it was the doctor himself.

Q.—Any reason stated? A.—No reason stated that I remember of.

Q.—Was it supposed to be beneficially vested in him? A.—I do not know how it was supposed to be vested.

Q.—How did you suppose it would be? A.—I suppose if I had any supposition about it that it was 100 shares of stock set aside to the doctor's name to be used as he thought fit.

Q.—You thought he would have a beneficial interest in it, and could do as he pleased with it? A.—Could do as he pleased with it to a certain extent.

Q.—What do you mean to a certain extent? A.—What I mean is that no consideration passed for that. We did not have to give it to the banker because the banker got his 237½ shares; we did not receive any money for it, and there was no consideration of any kind; it was simply placed to the doctor's name and remained there; that is all I can tell you about it.

Q.—You can tell me whether you at that time so far as you are concerned expected and intended that they should be his shares beneficially, or was he holding them in trust for anybody? A.—I did not expect they were to be kept by himself.

Q.—For whom did you think he would hold them? A.—I did not know.

Q.—You did not know he would hold them for yourself and Mr. McGillivray and Mr. Wilson? A.—No,

certainly, I did not think he would hold them for anybody but himself.

Q.—You have said a moment ago you did not expect he would hold them for himself? A.—For himself, as I said before, to be given as he pleased.

Q.—What I am anxious to find out, if you will enlighten me, Mr. Foster, is this; you did not suppose he was holding them at all in trust for you and your associates, did you? A.—Well I did not know why or how he was holding them; I simply know this as a fact, that they were set apart to his name.

Q.—Did you think that you would at any time have any right to call upon him to give them up? A.—Well I do not know that I thought about it at the time particularly.

Q.—With what idea in your mind did you assent to his getting these hundred shares? A.—Well I simply assented to their being placed as he had requested.

Q.—With what idea? A.—I had no particular idea.

Q.—You had no particular idea? A.—No.

Q.—Well had you a general idea? A.—I do not know that I had any general idea.

Q.—Did you give away your share in \$10,000 of stock without thinking anything about it at all? A.—Well it went in that way.

Q.—Did you do it without thinking about it? A.—I do not think I thought very much about it.

Q.—Can you not tell us any more than that? A.—No I cannot.

Q.—Did you want the Doctor's good will? A.—The Doctor had assented to the proposition before that.

Q.—Without the \$10,000 in it? A.—Yes.

Q.—Then I ask you, did you assent because you were desirous of his good will? A.—I do not know that I thought about it at all.

Q.—It was a request that he made to which the three of you yielded. There is an expression which I dislike to use, but it conveys the idea better than any other. Were you held up by the Doctor? A.—I did not look upon it in that way.

Q.—Did you look upon it that the Doctor was looking for some personal benefit for himself? A.—I did not.

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Q.—Whom did you expect he intended to benefit by taking these 100 shares? A.—I did not know. I did not inquire. I did not make any comment about it. If I had any idea at all I should suppose my idea would be this: that in some way he intended to use it for the benefit of the company.

Q.—For the benefit of the company? A.—Yes, but there was no contract in any way, shape or form as to any service that was to be performed by him for it, but if I had any opinion at all, that would be the opinion that I would have.

Q.—Your idea would be that the doctor would be holding it for the benefit of the company? A.—The benefit of the company in some way.

Q.—But without any recourse against him if he kept it himself and put it in his own pocket? A.—I do not think I thought of that.

Q.—At all events you had not the idea, and I want, if you please, that you will say so clearly, you had not any idea that he was holding it for the benefit of the three of you? That idea did not cross your mind at all? A.—Well I do not know particularly that I had.

Q.—Had you even generally an idea that he was getting these hundred shares to hold them in trust for you three? You had no such idea as that surely? A.—I had no idea definitely that he was doing it for that. I think I may have had an idea like this, that in some way they were to be used for the benefit of the company. If they were not so used for the benefit of the company that they should go back to the original owners.

Q.—Nothing of that sort of course was said? A.—Nothing of that sort was said. I think that was an idea

Q.—Did the Doctor speak to you about it? Was it upon you that his request was made? A.—No no.

Q.—From whom did he request it that you understood? A.—He simply made that as a suggestion to the Board.

Q.—That 100 shares should be vested in him? A.—That a hundred shares should be put in his name.

Q.—Then Sir John Boyd a thousand; that was to qualify him as a Director, as you have said, of the

Great West Land Company? A.—Yes.

Q.—And the Hon. Robert Rogers another thousand dollars? A.—Yes, the same way.

Q.—And George Scholfield another \$1,000. That was in the same way? A.—Yes.

Q.—Then I think Sir John Boyd and Mr. Scholfield subscribed besides for stock for which they were to pay? A.—They did.

Q.—And I think they were the only people who did? A.—Yes.

Q.—Was that the result of any discussion or conversation that you had with anybody? A.—As to the subscriptions?

Q.—What understanding had you as to the reason why these gentlemen bought into the company when no other person had done so? A.—Well, I think it was understood that whilst ten shares each were given as qualifying stock, that they should also each subscribe for 40 shares.

Q.—That does not seem to have applied to the Hon. Robert Rogers? A.—Well, I think it does apply to the Hon. Robert Rogers yet. His stock has not been sent to him and he has yet the option of subscribing for 40 shares of stock under that understanding. I do not say that if he did not that we would deprive him of that stock.

Q.—Not as things are now, certainly? A.—No.

Q.—Is there any option outstanding which people could come in and take up? A.—Nothing.

Q.—And there is no intention to admit the public at all now? A.—No.

Q.—I should like you to tell me why it was suggested that in addition to the thousand dollars of qualifying stock these three gentlemen—I will put the whole three now—these three gentlemen should be required to subscribe and pay for 40 shares each? A.—May be I put it too strong if I say it was an actual requirement, but that was discussed, and that was the understanding, that they would subscribe for 40 shares each in addition to the ten shares that they got as qualifying as directors.

Q.—What reason can you suggest, if you can suggest any for it, either by reason of what you had in your mind then or by reason of anything that you can suggest now? A.—Oh, I suppose it was the idea that these gentlemen should subscribe as well as

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receive a bonus stock. I suppose that was the understanding.

Q.—Then I am asking you what you can suggest as a reason for having them do so. You did not need the money? A.—Why?

Q.—You did not need the money with the Union Trust putting up for all you needed? A.—Oh well, we would like to have stock subscribed.

Q.—You did not want to let the public in to eat up all the profits. I want to know if you can tell me why it was thought these three gentlemen ought to put up \$4,000 a piece when nobody else was doing it? A.—Nobody else got ten shares of bonus stock.

Q.—No, some of you got a good deal more? A.—Yes, which was ours by right.

Q.—Do you put it this way; that they were allowed to have the bonus stock in consideration of subscribing for 40 shares which they were to pay up? A.—That was the understanding, that they would subscribe for that. I do not say that it was an absolute understanding. I do not think that it was so put.

Q.—Well then, Shaw, Murray, Kidd, Vandusen, Dale and Dinnoek got a hundred shares between representing \$10,000? A.—According to the division they arranged among themselves.

Q.—And Pope and Fowler got the 50 shares you have told me about out of the \$100,000? A.—In trust.

Q.—That makes the whole \$100,000? A.—Yes.

JUDGE MAC TAVISH: In trust, you say? A.—In trust, yes. They acted for the syndicate. They held that stock for the syndicate.

MR. SHEPLEY: I notice that Col. Davidson is not brought into this, nor is Mr. Stevenson. Was that the result of any discussion? A.—I do not remember.

Q.—Why were they left out? A.—Oh well, many were left out. We cannot all be taken in.

Q.—You and McGillivray and Wilson and the doctor and Sir John Boyd were all directors of the Union Trust Company. You were all in? A.—Yes.

Q.—Why was Davidson left out? A.—Oh, I do not think there was any reason at all.

Q.—No discussion? A.—No.

Q.—Why was not Mr. Stevenson taken in? A.—I do not think there was any discussion about that.

Q.—You do not recollect or recall any discussion about it? A.—No.

Q.—Then let me see: exclude for a moment any stock issued in respect of

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the banker's advances, and you have altogether \$150,000 of stock and \$8,000—that is \$158,000. Is that right up to this point? A.—Just give the shares. We had 475 shares.

Q.—You had 445 shares? A.—And thirty.

Q.—And 30 and $7\frac{1}{2}$? A.—482 $\frac{1}{2}$.

Q.—Then there was 237 $\frac{1}{2}$? A.—Well, that is all we had. The first mentioned figures were all we had.

Q.—I have taken it commencing with the other end; there was \$50,000 to Pope and Fowler and \$100,000 to you, out of which Pope and Fowler got \$5,000? A.—Yes.

Q.—That is \$100,000 and the \$8,000 subscribed by Sir John Boyd and Mr. Scholfield? A.—Yes, \$4,000 each.

Q.—That is \$158,000 of stock of 1,580 shares. Do you assent to that? A.—If your arithmetic is all right that is correct. I know that we had 475 shares plus $7\frac{1}{2}$. That would be 482 $\frac{1}{2}$. That is all that we had, and it might be just in order to say that that was not practically all the stock, as I see in error it has gone forth that we own practically all the stock.

Q.—I am speaking now about the stock other than the stock which was taken for advances by the Trust Company. Then I come to the next minute upon the subject, which is the day following that agreement, the 23rd June, and I see that Messrs. Boyd, Wilson, Foster and Davidson are those who were present. "The General Manager reported that as instructed by the Board he had completed arrangements with the New Ontario Farm and Town Site Company for the transfer" (Reads minute,) down to the words "advances to be limited to \$140,000." Well then the matter came up next on the 9th July apparently, and there were four of you present on that occasion, the fourth being Col. Davidson. You remember the agreement being then submitted and discussed, and approved? A.—I do not remember.

Q.—I will read you the minute: "The General Manager reported the agreement between Messrs. Pope and Fowler and the New Ontario Syndicate whereby Pope and Fowler conveyed directly to the Syndicate instead of to Foster, McGillivray and Wilson." (Reads minute.) That was all to prevent circumlocution? A.—Yes.

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Q.—This agreement was unanimously approved and adopted. Then you submitted a form of assignment. That is the end of that minute. I suppose you would assent to the theoretical possibility of abuse, having regard to the fact that three of the four Directors were personally interested? A.—It is possible.

Q.—Then you changed the name of the company to the Great West Land Company? A.—Yes.

Q.—Was there anything beyond convenience in changing the name? The other company had a frightfully long name, and the Great West Land Company was a short name? A.—The other name did not seem to be appropriate to North West Land.

Q.—You had spread a good deal out of New Ontario? A.—Yes, it was not developed then as it is now.

Q.—A matter which probably did not occur to you—after all I would like to know—were you at all concerned as to whether the charter of the old company permitted it to deal with lands in the North West? A.—I do not think there was any change made in the charter. I think the only change that was made was the change in name.

Q.—That is what I think too. But the charter was an Ontario charter? A.—Yes.

Q.—You do not recall any discussion as to whether under that charter you could traffic in North West land? A.—I fancy the legal gentlemen looked after that.

Q.—You do not recall it being submitted to anybody for an opinion? A.—I do not remember, although the change in charter—I do not know but what I do recollect now. The change in charter was entrusted to Mr. Curry who was to get it, and I think he had instructions to see if we had sufficient powers in the old charter, and if we had not, to get sufficient powers in the new.

Q.—That is what you recall? A.—Yes.

Q.—Do you recall a meeting in March, 1904, in which the option was exercised to take stock? A.—I know there was such a meeting. I believe that was the date.

Q.—There were present at that meeting Sir John Boyd, Messrs. McGillivray, Wilson, Col. Davidson and yourself? A.—Yes.

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Q.—What led up to the exercising of the option at that time? A.—I cannot tell you any more than was told by Mr. Stevenson in his evidence. Mr. Stevenson—

Q.—You agree with what he stated about that? A.—I agree with what he said about that, I think it is exactly as he stated it.

Q.—Perhaps we need not waste time over that? A.—No; and that meeting was held, and that resolution was passed in accordance with the agreement we had made with Mr. Stevenson as to the advisability of that, simply to carry out what had been requested.

Q.—Then do you recall the circumstances leading up to the alteration in the option, and the reverting to the position of lender? A.—Generally, yes.

Q.—Tell us about that from your own standpoint? A.—Matters went on under the power, the option that the Union Trust Company had to take stock for its advances until Mr. Stevenson raised the point as to whether this partnership and arrangement as it existed between the Union Trust Company and the Great West Land Company was one that ought to be allowed to go on, and his ideas were very strongly expressed.

Q.—What was the underlying substratum of principle that he was urging? A.—Yes, I am going to say. His idea was very strongly expressed on this line, that we should put the advance in the shape of a loan pure and simple, and not any longer be a participator or partner in the matter, which involved the giving up of stock, and the calculation of all advances, interest, and the like of that, putting it in the shape of a first mortgage, and taking that on behalf of the Union Trust Company, and getting entirely out from any participation in the company on any other line except that of a pure, straight loan.

Q.—Now, then, I have not yet got to what I am desiring to get at. What was the reasoning upon which he advanced that principle? A.—As I understand it the reasoning was this, that it was a better investment, and certainly a better looking investment for the Union Trust Company to have a straight loan than to be in a company in a controlling position or otherwise. I think his objection was simply on the line of subsidiary com-

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panies, that he desired to get rid of holding this as a subsidiary company, and having it in the shape of a straight loan.

Q.—He was rather critical of the appearance of that class of investment? A.—He did not like it.

Q.—He said he thought it was a better investment, and certainly a better looking investment? A.—Yes.

Q.—He was rather looking at the matter from a critical standpoint of architectural beauty? A.—No, I think he had both ideas in his mind, not only a better looking investment, but under the circumstances he believed that it would be a better investment. I think his own testimony is clear on that.

Q.—Was there any discussion that you recall with regard to criticisms that had been passed more recently with respect to that class of investment and subsidiary companies? A.—No, I do not recall any.

Q.—Then the matter was put on that footing? A.—It was put on that footing.

Q.—And on that footing it still remains? A.—Yes.

Q.—I have only one or two other questions to ask you about the Great West Land Company, and I want you to go back again to the origin of the company. The origin, of course, was the obtaining of the option by Pope and Fowler from the Canadian Pacific. They, I suppose, were sanguine themselves about it? A.—Pope & Fowler?

Q.—Yes? A.—Oh, I think they imagined they had a good option.

Q.—Did they put forward as advantageous features in the first place the advantageous price at which they had got the option? Did that come in at all? A.—No, that did not come in at all naturally, because they placed their price upon it, and the only subject of discussion between us was as to what price we would be willing to pay.

Q.—Did you hear from them, or in any other way that the lands were being held at the time they got this option—held at first hand, by the Canadian Pacific at \$5 an acre? A.—What is the question?

Q.—Did you hear from them or otherwise that at the time they got the option the lands had actually been held at first hand by the Commissioner of the Canadian Pacific at \$5 an acre? A.—I did not.

Q.—You did not hear that? A.—No.

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Q.—You did not hear what any of them say they had secured at headquarters a reversal of the Commissioner's refusal? A.—I had no knowledge of it at all.

Q.—Did you interest yourself enough to find out at what figure the lands had been held prior to their getting the option in the Commissioner's office? A.—I did not, in respect of those lands.

Q.—Then you spoke a moment ago of the fact of a railway being projected there adding to the value of the land? A.—Yes.

Q.—Did you hear what was stated individually to Mr. Fowler and to Mr. Lefurgey that we heard the other day? Did you hear that at any time? A.—That excursion round the North West?

Q.—And about their getting secret information in advance of the location of the Canadian Northern? A.—I heard of it.

Q.—Had you ever heard it before? A.—Never.

Q.—Then one other subject in connection with the Great West Land and I think I shall stop troubling you about that. What alteration has there been, or what alterations in the holding of stock since the synopsis was made up? A.—The holdings are all set out in that book. I have not it in my head.

Q.—Now originally you had 17½ shares. I take your name first because it is the first one here? A.—Yes.

Q.—How was the \$44,500 paid? That was 445 shares. How was that distributed between the three of you? A.—Equally. There may have been on account of the division some fraction, but if there was that was put in trust, but it strikes me that in the whole of the division that that has worked out so that there are no fractions, and none held in trust, although I am not quite certain about that.

Q.—That would be 148 2-3 shares apiece? A.—One-third.

Q.—I find that you are the holder of 10 shares, 155 shares, 10 shares, 113 shares, 14 shares, and in trust one share and a fifth, or a total of 303 1-5 shares. Tell me how you have increased your holding? A.—My holdings are increased by 10 shares—this is the third—148 1-3?

Q.—Yes. A.—Well, 10 shares. That is my director's stock—added to the other.

Q.—That is the first ten? A.—Yes.

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Q.—That corresponds with 10 of the 17½? A.—Yes, and the 7½ that has been accounted for.

Q.—Well, it is not accounted for in the certificates that now exist? A.—It must be in the addings up and the divisions. The certificates cover it all unless there may be a share and a fraction, or something like that, held in trust.

Q.—Then you have 155 instead of 148? A.—Yes, and if you add 7 to 148 it makes 155, and then a fraction of the half and a third—may be the fractions are put together and held in trust some way. However, that is how it comes, whatever you find there. It arises out of that.

Q.—Then there is another ten shares? A.—That is ten shares which you will find transferred from Pope and Fowler belonging to them and transferred to me; which I bought and paid for.

Q.—What did you buy at? A.—I cannot tell what I bought at, but a substantial sum in cash.

Q.—Then the 113? A.—That 113 is a third of the 337½ shares, probably a fraction off, put on to the other fraction, to be held in trust.

Q.—Then the 14, what is that? A.—I understand what that is. That 14 is a third share of one-half of the stock taken as payment on the second batch of lands that were bought for Pope and Fowler. They were turned into the company at \$5 the same as the other, and the price to us was \$4.50, and the difference in the stock was transferred to us by Pope and Fowler.

Q.—That was an additional acreage transferred to the company by Pope and Fowler out of the same selection, was it? A.—No.

Q.—Out of the same area? A.—No. Well, it was in proximity, but quite a distinct part, an entirely distinct piece of land so far as I know—so said to be by Pope and Fowler themselves.

Q.—At all events that was your share of that? A.—That was my share of that.

Q.—Then 1 1-5 in trust is adjusting the fractions? A.—That is the different fractions that could not be divided and were put in trust.

Q.—And you are holding them— A.—For McGillivray, Wilson and myself.

Q.—Mr. Wilson's holding is 380 shares? A.—His holding is made 380 shares by virtue of divisions equivalent with my own plus stock that he bought.

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Q.—From whom did he buy stock? A.—The records will show. He bought really, I think, all the holdings of that syndicate?

Q.—That is the old town site syndicate? A.—Maybe not all of the holdings, but most of them.

Q.—You do not know what he paid, I suppose? A.—I do not.

Q.—And Mr. McGillivray's— A.—A division of those thirds.

Q.—McGillivray's thirds are just what yours would have been if you had not acquired any other? A.—Yes.

Q.—Mr. Curry still holds his five shares? A.—Yes.

Q.—And then there are the original five shares belonging to the old incorporators? A.—Yes.

Q.—Then the six directors other than you three selves, 10 shares each, then Pope and Fowler? A.—In trust 550 shares.

Q.—I make it from the record 520 shares in trust—580 shares? A.—520 shares in trust, because 30 shares were taken out to qualify Pope, Fowler and Lefurgey as directors, although they were really held in trust, yet 10 shares were given to each one of them.

Q.—You are not aware of what that trust is, I suppose? A.—It is held for the syndicate, whoever that may be, and not distributed.

Q.—Have you any other interest than is disclosed upon the stock-book, any other beneficial interest in this company? A.—Other than disclosed on the stock-book?

Q.—Yes? A.—No.

Q.—Are you interested in the Pope and Fowler Syndicate to any extent, or to any degree? A.—To no extent and to no degree, never was.

Q.—You have never been interested in that, good, bad or indifferent? A.—No, never was in the Syndicate, never had anything to do with the selection of lands, and never had anything to do with it. The first I knew about it was when it was brought before that Ontario Town Site Syndicate as I stated to you.

Q.—Can you let me have that paper we spoke about? A.—I will see that you get it in the morning.

Q.—Before you go, what papers have you here? A.—I have a replica of the papers you have been discussing this afternoon.

Q.—Have you any objection to leaving them with me? A.—You have them all. I got them from Mr. Tilley. He has made copies of them

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all, and he just gave me back these the other day. These are some of my own memoranda which I do not care to part with.

Q.—Having nothing to do with this? A.—No, I brought some notes to refresh my mind on the matter.

Q.—But these are not agreements you have here? A.—No.

Q.—Unless they are private notes you have made to refresh your memory I should like to have them? A.—Well, they are.

Q.—I will accept your word when you say that? A.—Yes, I could show them all to you.

Q.—But you have so many of them—they are very voluminous? A.—I have not so many as I might have.

(Commission adjourned at 4.30, October 3rd till October 4th, at 10.30 a.m.)

EIGHTIETH DAY.

MORNING SESSION.

Toronto, 4th October, 1906.

INDEPENDENT ORDER OF FORESTERS (Continued).

Examination of MR. GEORGE E. FOSTER by MR. SHEPLEY resumed.

Q.—Will you give me an explanation, please, about the subsequent sale to the Great West Land Company by Pope and Fowler of the 8,640 acres, how it came about and how it was carried out? A.—Some time after the transaction with regard to the first lot of lands, and the only lot of lands which, so far as I know, were held in trust by Pope and Fowler for the syndicate, we had an offer made to us by Pope and Fowler in their own right to a section of land amounting to about 8,640, if I mistake not.

Q.—Those are the figures which I have taken from the minutes of the Great West Land Company? A.—8,640 acres, these were in the same section of country, and about the same average value, so far as we could judge.

Q.—When you say, so far as we could judge, what do you mean by that? A.—We had the same field notes and information with reference

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(G. E. Foster, Ex'd.)

to this as we had with reference to other lands in the Great West which had already been purchased.

Q.—What did you understand were the circumstances under which Pope and Fowler had acquired that? You say they were in the same section and you had the same field notes? A.—Yes. When I say the same field notes, of course the field notes would be with reference to other lands.

Q.—How do you mean? A.—The Government field notes are available for all sections of survey territory. On that we formed our judgment in part with reference to the first section; the Government field notes, also, were part of the basis on which we formed our judgment with regard to the other.

Q.—I am anxious for the moment to find out exactly what you mean when you say the field notes in respect to the small block were the same as with respect to the large block. A.—When I say the same, I mean what we considered equally favorable.

Q.—When you say "we," to whom do you refer? A.—Messrs. Wilson, McGillivray and myself.

Q.—Was the offer by Pope and Fowler to you or to the Great West Land Company? A.—The offer by Pope and Fowler was to us, just the same as the preceding offer came to us.

Q.—Were there any writings with regard to that? A.—There is a document which has been handed in, I think, which is at the service of the Commission, transferring those lands to the Great West Land Company at \$5 an acre. The intermediate step—that is, if all the steps had been successfully carried out—we would have had a contract between Pope and Fowler and Messrs. Wilson, McGillivray and myself, and then we would have handed over those lands to the Great West. Both these transactions were done in one, but it was on exactly the same basis.

Q.—Then the transaction was carried out? A.—Yes.

Q.—Can you, if you take a little trouble, not at the moment, but can you get me a description of the block of 8,640 acres? A.—A description as to—

Q.—As to what lands are covered by it? A.—Yes, that is in the records of the Great West Land Company and of the Union Trust Company.

Q.—When you say in the records, what do you mean by that—not in

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their minutes? A.—Every acre of land we purchased is covered by contract, and the contract in each case gives a description of the land by sections.

Q.—Do you say you are under the impression that the contract in respect of that is now before the Commission, or that it is now in hand so that it can be put in? A.—If you have everything that belongs to the Great West Land, as you have determined on having, you must have that. There can be no contract, I mean without the description of the land; that is appended to each contract. I should be very much surprised if that is not in the document.

Q.—We have strayed—and I am not complaining of it at all—from what I commenced to ask you. I asked you what you learned of the original obtaining of the option by Pope and Fowler. A.—The only and sole information that we had with reference to that was this: Pope and Fowler represented themselves as the owners of that block of land. They offered it to us. We took it into consideration and we decided to purchase it. We did, and it was handed over to the Great West Land Company.

Q.—You have answered me a great deal that I did not ask you. Please go back to what I did ask? A.—I thought I would facilitate operations in that way.

Q.—What did you learn as to the means by which they became possessed of this option? A.—Nothing, and did not inquire.

Q.—You did not know and did not inquire? A.—Certainly not.

Q.—Did you know from whom they held the option? A.—I did. They held it from the C. P. R.

Q.—You might have told me that. I asked you how they acquired it. A.—You asked me how they acquired it. That was not a question as to whom they acquired it from. I had no intention except to give you information. I am rather dull at answering questions.

Q.—No, you are not dull at all, but we will make very much better progress, you don't mind me saying, if you will attend carefully to the question. A.—That is what a witness is to do.

Q.—You say you were not informed at all by Pope and Fowler, or by anybody representing them, with regard to these lands, except that they had them under options from the C. P. R. A.—Yes.

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Q.—Did you learn, or had you an understanding, or did you suppose these were lands which, if the original option embraced more than 200,000 acres, might have been selected under the original option? A.—I did not.

Q.—You did not understand that? A.—No.

Q.—You did understand, however, that they were lands that came within the area out of which the 200,000 acres might be picked? A.—I did not know that.

Q.—I thought you said that to me this morning? A.—I say they lie in the same section of country, but I have no knowledge that they—as I understand your question to be—were included in the original batch of land out of which the 200,000 acres was to be selected.

Q.—I suppose you can ascertain that by referring to the description attached to the Pope and Fowler 200,000 acres option? A.—I do not think so.

Q.—Why? A.—I think the original Pope and Fowler option accurately and definitely describes the lands which it embraced, and that those lands were bought in the first option. Those lands were 200,000 acres, more or less. If they were found to be less, where of course only that amount would be paid for, but you would not find out from that document at all—that is what I mean in answer to your question—that is my impression—what I mean to say is that original option did not set out an area of lands out of which we were to select 200,000 acres, but they scheduled definitely the lands, and they were that number of acres of land, be it 200,000 acres more or less.

MR. NESBITT: Q.—That area was taken you mean? A.—The whole area was taken, whether it was 200,000 acres, more or less.

Q.—And if the area was found to fall short—

MR. SHEPLEY: You are intercepting me a little and I would rather get at it in this way.

Q.—I have the option for the 200,000 acres in my hand? A.—Yes.

Q.—And this is the way it reads, "Pope and Fowler are given the exclusive option of purchasing these certain parcels or tracts of land and premises situated in the districts of Alberta and Saskatchewan in the North West Territories of Canada, amounting to 200,000 acres, to be selected prior to the 1st of June, 1903,

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from the lands described in the schedule hereto annexed? A.—Yes.

Q.—Which is declared to form part of this agreement? A.—Yes.

Q.—That looks to me as though this scheduled a large tract of territory out of which 200,000 acres were to be selected? A.—That will be proved by comparing that schedule with the lands that were actually bought afterwards, and that has been done practically in the course of the transaction, and my impression is that that schedule was absolutely exhausted by the number of acres of land that we got, with the exception maybe of a few quarter sections or sections which it was found had been either squatted upon or in the opinion of the C.P.R. had become, constructively or otherwise in the possession of someone else, and I think you will find in the course of carrying out the whole transaction that there were certain cases of that kind, and for those few sections—I do not believe it would amount to four sections in all, maybe not to as much as that—other lands were given us in the place.

Q.—We will examine that with a little care. You do not I suppose at all question this; that whatever form the transaction might have taken as to description at this date, the 24th April, 1903, there was originally a large tract out of which selections were to be made? A.—I do not know anything about that.

Q.—Did you not familiarize yourself with the transaction at all? A.—Not to any extent, beyond the scope that it would take under this description, and my impression, until you raised the point this morning, was that the lands scheduled there were the lands that were practically taken, and my impression remains that way yet, with the exception, as I have stated of maybe a few sections.

Q.—I was asking you something else. What did you understand as to the date at which the option was received? A.—This option?

Q.—Yes? A.—Of the 200,000 acres?

Q.—On the 24th April this document is describing something which had taken place before? A.—Yes.

Q.—And the thing which had taken place before was the giving of an option over a larger tract of territory with a right of selection. You know that Pope and Fowler were out there selecting the lands? A.—I know they were.

Q.—They were selecting their 200,000 acres out of a larger tract? A.—Well.

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Q.—Is that so? Did you understand so? A. I had no personal knowledge with reference to it, but I know so now from the course of the evidence and what has transpired.

Q.—Did you not understand so at that time? Is that not the usual course when an option is given to select? A.—My understanding at that time was as I have stated to you that that was the description of the scheduled lands, and that these lands were actually bought, not an area out of which we were to select.

Q.—Take the Pope and Fowler option; what did Pope and Fowler have? A right of selection out of a larger area? A.—I think they had.

Q.—And they made that selection and selected accordingly lands you took over at an advance of a dollar an acre? A.—And that those lands were the ones selected in the area out of which it was to be selected.

Q.—When it was reduced to formal conveyancing bringing in your selection, the lands had been selected, and there was an accurate description? A.—That being the accurate description.

Q.—I suppose it stands to reason—it is a matter that is hardly necessary to demonstrate—that in the course of making selections there are lands usually rejected? A.—Evidently. That is the purpose of having an area—

Q.—You take the best? A.—That is the purpose of having an area to select from.

Q.—Do you know or were you informed, or at any time had you any information as to whether or not the 8,640 acres were selected in the tract originally travelled over for the purpose of making selections? A.—I did not know and do not know now.

Q.—And did not inquire? A.—I did not inquire.

Q.—You were making a purchase for your company? A.—Yes.

Q.—And making a purchase for yourself and your associates in the syndicate? A.—Yes.

Q.—You did not inquire? A.—I did not inquire.

Q.—Have you since had any reason to suppose that these 8,640 acres were the lands which were rejected in the original selection? A.—Not from any source of information.

Q.—You have never heard that suggested? A.—I have never heard it suggested, except I think it was suggested by yourself a few days ago here

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casually, maybe when Dr. Lefurgey was giving his evidence.

Q.—That you had never heard up to this time? A.—No.

Q.—In your purchase of that block of land for the Land Company, you were of course acting constructively at all events, as a trustee for them, for your company? A.—We were acting exactly as we had acted before. We were purchasing from Pope and Fowler and we were handing over to the company at the advance of 50 cents in stock absolutely on the same line as before.

Q.—Then you were purchasing for the ultimate benefit, after the middle profits had been made, of the Land Company? A.—Yes.

Q.—And you were purchasing as their agent, director and manager? A.—Well I think that may be modified in this way, that we were purchasing from Pope and Fowler that option; that would have been included in one transaction, a transaction by which Pope and Fowler would have conveyed to us that option, or the lands as a whole for a certain price.

Q.—For a dollar advance? A.—Yes, I am quite willing you should say that. It has been often said. I do not consider that any man would ever buy anything if he did not buy it with the idea of selling it for more than it cost him. It seems to me all business would be at a stand-still if that was not the principal.

Q.—The only reason in the world why I interjected that was because you said, "at a certain price" and I said "at a dollar an acre advance?" A.—Yes.

Q.—Do you quarrel with the questions unless they are objectionable. Now go on with your answer? A.—Where was I?

Q.—If the transaction had been put through— A.—If it had been put through its successive stages, it would have been first a conveyance from Pope and Fowler to Wilson, McGillivray and myself at a certain price, and then the second transaction and document would have been a sale of that to the Great West Land Company at an advance of 50 cents per acre payable in stock. Those two transactions—I was not responsible for the legal form it took—those two transactions were moulded into one, to save trouble I suppose; I do not know anything else.

Q.—And then having found their way into the hands of the Great West

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Land Company they would fall to be administered by yourself and your colleagues for the benefit of that company? A.—Yes.

Q.—I am concerned to know whether you wish it to be understood that that being the position of affairs you made no inquiry with regard to these lands? A.—You are not correctly informed if you think we made no inquiries. We made exactly the same inquiry and investigation as we did with reference to the other land that we bought, and we satisfied ourselves—and that is all that can be done—we satisfied ourselves that they were eligible lands, and that they were worth the price, and we paid it. If it will be any comment upon that, I will say this; that the examinations were made of every section and quarter section of land in both those blocks afterwards by competent examiners, and I think I am altogether within the mark in saying that, taking parcel for parcel, these lands, as far as shown by those examinations, were on a par of quality with the other lands that were bought. I state that just as my impression of the results of the examiners' report.

Q.—Did you ever disclose—you and your associates—the interest that you had in that sale to the Union Trust Company, or to other people interested in the Great West Land Company? A.—I think it was thoroughly understood in the Great West Land Company that the lands were bought on just the same basis as the others.

Q.—I can only go, until you have told me something, by the minutes of the Great West Land Company, and this is the minute I find with regard to that. In the Director's Report for 1903 to the shareholders, which is found at page 60 of the Minute Book this appears, "On July 9th, 1903, the company purchased from Messrs. Pope and Fowler, 8,640 acres of land adjoining those already bought, and at the price of \$5 per acre, of which \$8,320 was to be paid in stock of the Company at par." That is the report of the directors to the shareholders? A.—Yes and that represented the case as it was, as far as the Great West Land Company was concerned.

Q.—You would not, perhaps, think it necessary that your interest in the

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transaction should be disclosed in the report? A.—No, I should not.

Q.—You do not think so; is that right? I do not know whether you answered. If you did, I did not catch it? A.—What was your question?

Q.—I asked you, do you think it was necessary or desirable that the report which stated the purchase of this 8,640 acres of land should have stated the fact that you were an intermediate purchaser, bringing the lands in at a personal profit? A.—Well, I am not so sure about that.

Q.—Does that not appeal to you? A.—Yes.

Q.—To your ethical instinct at all? A.—I quite say that does appeal to me thus far, that probably it would have been better if that had been done so, but I also have the impression that it was thoroughly understood by the members of the Board; that is the report at the Annual Meeting.

Q.—That is the report to the Annual Meeting; that is the report at which the shareholders present were Sir John Boyd, Matthew Wilson, Mr. Scholfield, yourself, Mr. VanDusen, and the Union Trust Company, Limited by proxy. Do you remember who held the proxy of the Union Trust Company? A.—I do not.

Q.—You do not remember? A.—No.

Q.—Then I shall, perhaps, come back to the minute, but in the meantime I think at your first directors' meeting of the Great West Land Company you three gentlemen were appointed the Executive Committee of the Board? A.—That is quite true.

Q.—And you remained the Executive Committee throughout? A.—Until Mr. McGillivray's absence and then Mr. Scholfield was put on.

Q.—At all events over the period about which I am now making inquiries? A.—Yes, that was the Executive Committee.

Q.—Do you observe the emphatic nature of the dual position there? A.—In what way?

Q.—That the very gentlemen who were clothed with the executive power in respect to the affairs of the Great West Land Company were the very persons who were personally interested in the transaction? A.—Yes, that is true.

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Q.—I ask you, do you recognize how emphatic the dual position is there? A.—The dual position is plain, unmistakable.

Q.—You are perhaps aware that it was only by an analysis of the stock book of the Great West Land Company that your interest was ascertained in this 8,640 acre transaction? A.—Yes, it was ascertained by that; that is ascertained by the Commission.

Q.—Do you say that Sir John Boyd knew of it? A.—I cannot say absolutely whether he did or did not.

Q.—Can you say Mr. Scholfield knew of it? A.—I think Mr. Scholfield knew of it.

Q.—You think he did? A.—Yes.

Q.—Of course Fowler, Pope and Lefurgey knew and you and McGillivray and Wilson knew of it, and you say Mr. Scholfield did? A.—I think Mr. Scholfield did.

Q.—Did you tell him? A.—I do not know whether I told him or Mr. Wilson told him, but I think—that is my impression—I cannot swear positively, that Mr. Scholfield knew of it.

Q.—I want to direct your attention to what has been said with regard to these lands by Mr. Pope under oath. Before reading this to you may I ask you whether you had a knowledge that this 8,640 acres was part of a larger block that Pope and Fowler had? A.—Outside the first block?

Q.—Yes? A.—No, I did not.

Q.—You did not know that it was part of a block of about 17,000 acres? A.—No, I did not.

Q.—You were not aware of that? A.—No.

Q.—At page 46 this question is asked of Mr. Pope:—

“Q.—The 17,000 acres mentioned in Exhibit 3 is part of the land that is contiguous to the 200,000 acres? A.—Well, I could not swear that because I do not know. It might have been. I do not know it.

“Q.—And that is land which you obtained information about while you were in Winnipeg the previous fall? A.—Well, if it is of the block that we reserved it would be.

“Q.—You know the land, do you not? A.—I do not know the land in that way.

“Q.—You obtained information about this land while you were in Win-

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nipeg going over the plans and all the information you acquired at that time in the November previous? A.—I say if it was of the 200,000 acres—if it was of that lot we must have obtained information about it, and that is the reason, I suppose it was given to us as of inferior quality.

(Reads from evidence down to the words 'Mr. Fowler made that bargain; he can state all about it. I was not present when the bargain was made, but afterwards shared in it.'")

Q.—Is that news to you? A.—Absolutely. When and where did that evidence come out?

Q.—This was taken on the 29th May, 1906, in the suit of Lefurgey against the Great West Land Company before a Special Examiner in Montreal? A.—That is what I wanted to know.

Q.—The examination proceeds:—

"I afterwards shared the profits and ratified the purchase."

That he says at page 48 does not form part of the 200,000 acres. Then he is asked:—

"Q.—This is part of the land that was reserved? A.—Yes, but not of the 200,000 acres.

"Q.—Part of the reserved land? A.—Land thrown back on the C.P.R., part of the land that had been returned to the C.P.R. (Page 49.)

"Q.—And that was land, that 17,000 acres that you had inquired about while you and Mr. Fowler were in Winnipeg in the latter part of November 1902, and obtained information about? A.—And in our selection had discarded.

"Q.—Were you present when the sale was effected to the New Ontario Town & Farm Syndicate, later on? A.—Well, if that is the name of it.

"Q.—You were in Toronto on that date? A.—Yes I do not remember the exact date."

The sale he thinks was the 13th July. The examination proceeds:—

"Q.—And these 8,640 acres? A.—No, that has nothing to do with that sale.

"Q.—Tell me how that arose? A.—That was a subsequent sale that they purchased from Fowler myself and somebody else. Mr. Fowler was interested in that.

"Q.—Who was interested with you? A.—Perhaps there was nobody interested. I will not say. I think it was part of the 17,000 acres. I cannot say.

"Q.—The 8,640 acres were part of

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the 17,000 acres? A.—That was my understanding.

"Q.—The arrangement for the sale of the 8,640 acres was made at the same time? A.—Not that I know of.

Q.—Had you anything to do with the sale of the 8,640 acres? A.—No sir.

Q.—Who had? A.—Mr. Fowler."

Q.—That is all news to you? A.—All news to me.

Q.—Have you any idea to whom he is referring when he says Mr. Fowler, himself and another? A.—I have not, but if it will be any satisfaction I will say it is myself. I had absolutely nothing to do from the first to the last and no interest in any lands that were selected by Pope and Fowler, either for the first lot, the second lot or any other lot.

Q.—Of course that disclaimer of yours is rather too wide as the 8,640 acres are part of the 17,000 acres? A.—Not at all.

Q.—Because you were interested in in the 8,640 acres; you became interested in those? A.—You surely quite understand my answer. My answer was that in all the negotiations which began and were continued and ended in the selection of either the first 200,000 acre lot, or any other lot of Pope and Fowler, I had nothing to do with and no interest in.

Q.—I am speaking of Mr. Pope's general statement, that in making that sale he, Fowler and yourself were interested, as you have told us? A.—If by another he means Wilson, McGillivray and myself, that might be, but I took it—

Q.—If you have no knowledge of the 17,000 acres and of this being a part of it, I suppose you have no interest in the rest of it, if there was originally a tract of 17,000 acres out of which this was taken? A.—Not the least, never had.

Q.—You were not, apparently, going very carefully into the origin of their title? A.—I did not consider that I had any further to go than the option or contract that they presented to us with the party from whom they bought. I never went behind that in either transaction.

Q.—Would you have entered into the transaction just as it was entered into if you had been told that they were refuse lands—discarded lands? A.—Certainly not. What I mean by that is this, that if anyone had told me that these lands were discarded

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or refuse lands, it would have made me determined to see that the lands were of fair value before I bought them.

Q.—I thought you did that any way? A.—So I did.

Q.—What would you have done that you did not do if you had been told they were discarded lands? A.—I do not know in the end if we would have done anything else than we did, which was to take the best means we could to arrive at their value. It might have made one a little sharper if he had been told that these were discarded lands. We might have gone to further expense and taken further time in the examination of them.

Q.—If it is true that these were discarded lands, do you see anything more objectionable than if they had been original lands, in your syndicate being interested in passing them on at a profit? A.—Well, so far as that is concerned, the only thing that I see in it is this; the lands were presented to us for sale. We had to exercise our own judgment as to whether they were reasonably good and worth the price. We did that and our duty ended at that.

Q.—Your interest did not end there? A.—Our interest ended at that.

Q.—Your interest continued, with the object of a profit in view? A.—Well yes, in that sense.

Q.—Then cannot you not see that from the beginning of that transaction your interest and your duty were conflicting? I do not make any further suggestion than that. You may treat it as an abstract proposition if you choose. In that transaction, or in a transaction of that sort can't you see the conflict between interest and duty? A.—In what way?

Q.—It does not strike you? A.—In what way?

Q.—I am asking you, do you see a conflict between interest and duty? A.—In the selection of lands?

Q.—No, in your taking the option up and passing it on at a profit, and so far as we are able now to say, without disclosing to those to whom you owed a duty? A.—That we disclosed before. I gave you my view with reference to that.

Q.—Do you see any conflict between interest and duty? A.—Well, theoretically, there might be a conflict between interest and duty; if we had an interest in those lands we had an interest in their being lands worth the money that was given for them, otherwise our interest would be diminished.

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The company to whom they were given had that same interest, so far as getting lands which were reasonable in price, and of value. The interest really that we had and the interest that the Great West Land Company had were the same.

Q.—They were the same? A.—Yes, both were interested in having—

Q.—The Great West Land Company was loaded, not using the word in a bad sense, with an interest in getting your profits before it could get any itself? A.—Loaded, if you call it that, in the other transactions equally the same.

Q.—In the other transaction you have told us there was disclosure. In this we are so far not able to see any trace of it beyond your general recollection that Mr. Scholfield must have known it? A.—And that is the difference between the two in your opinion.

Q.—I am expressing no opinion? A.—That seems to be the only difference between the two.

Q.—At all events you won't go with me in recognizing the conflict between your interest as a syndicator and your duty as a director. You won't go with me in that? A.—In that respect I think the Great West Land Company paid exactly the same that they would have if they had bought directly from Pope and Fowler.

Q.—Then the price that was paid for this 8,640 acres was— A.—\$5 per acre.

Q.—The same price that was being paid for the 200,000 acres? A.—Yes, they cost the Great West Land Company exactly the same. The profit that Mr. McGillivray, Mr. Wilson and myself made out of it was just exactly the same profit that we made out of the preceding matter.

Q.—How was the price to be paid? A.—That is disclosed in the contract.

Q.—Do you remember? A.—A certain amount in stock and the remainder in cash payments distributed over a number of payments.

Q.—This is what the minute says, "\$8,320 was to be paid in stock of the company at par?" A.—Yes. That is on the theory of their taking at the price of \$5 an acre, \$1 in stock—\$1 worth in stock; 50 cents of that value in stock to themselves and 50 cents of that value in stock came to the syndicate. That the figures are not exactly the same arises from the fact that there would have been a fraction involved in the division, and

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therefore there was a little more money I think to be paid and a little less stock, or a little less money and a little more stock, in order to make it work out.

Q.—I think we can do a little sum which will make it very plain. The total purchase money would be, five times 8,640; multiply 8,640 by five and that will be the price which the company will be paying? A.—Yes.

Q.—\$43,200. Of that \$8,320 was to be paid in stock. That leaves the cash payment \$34,880? A.—Yes.

Q.—Now the joint profit of Messrs. Pope and Fowler was \$1.50, and if you multiply 8,640 by \$1.50 you get \$12,960, which would be the gross profit on the transaction to the two syndicates? Do you follow me? A.—Yes.

Q.—And if \$8,320 of that was paid in stock, then that leaves \$4,640 in cash. Had you any interest in the cash? A.—None.

Q.—You had none whatever? A.—None whatever.

Q.—Pope and Fowler got all the cash? A.—All the cash.

Q.—And you and your associates got half the stock? A.—With that fractional adjustment.

Q.—You got three times 14, or 43 shares between you? A.—42 or 43 or something of that kind.

Q.—You can tell me perhaps how the payments were made, how the cash payments were made? A.—I cannot tell you from memory; they are spread upon the books.

Q.—Then I return to the minute book again and take up another phase of the matter. In the early conveyancing it seems to be perfectly plain that the intention was to adjust the matter of the two syndicates upon the basis of acreage. For instance if there were 195,000 instead of 200,000 then the stock and other benefits would be proportionately decreased? A.—On the basis of acreage, yes.

Q.—In other words you did not I suppose, at all events in the first part of the transaction, you and Messrs. Pope and Fowler did not intend that the company should pay for 200,000 acres if you only gave them 195,000 acres? A.—Pay for simply what was received on the adjustment.

Q.—That was the intention? A.—Yes.

Q.—And you assumed upon that basis and discharged as a company all the obligations of the C. P. R.? A.—We assumed to the C. P. R. the

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payment of \$3.50 per acre for all that on adjustment the acreage proved to be.

Q.—For all that on adjustment the acreage proved to be? A.—Yes.

Q.—And on adjustment do you happen to know what the acreage did prove to be? A.—I do not know exactly, but it would probably be somewhere in the vicinity of 193,000 acres more or less. I cannot tell exactly.

Q.—Was any of your stock holding adjusted from the 200,000 acres basis at any time down to the present moment? A.—What do you mean by that?

Q.—Just what I say? A.—Was any of the—

Q.—Did the Great West Land Company pay for 200,000 acres in money and in stock? A.—No, certainly not.

Q.—Why do you say that? Because your stock holding is exactly on the 200,000 basis? A.—Yes, if the stock holding is exactly on the 200,000 acres basis, the money payments are made less if the stock holding is on the basis of the \$55,000 straight. Do you understand what I mean?

Q.—You do not suppose that Pope and Fowler are out one copper on all they selected, that you have not paid all that has ever been paid to the C. P. R.? A.—Certainly not. I do not say that we have not paid the C.P.R.

Q.—All that has ever been paid on that selection? A.—Well at the time we made the purchase some \$60,000 had been paid.

Q.—You refunded that? A.—We refunded that and paid it.

Q.—It is of course so. I want you to assent to it very clearly. All the money that has been paid on the selection of Pope and Fowler has been paid by the Great West Land Company? A.—Yes, all of it.

Q.—Do you say it only panned out at 193,000 acres? A.—Something like that.

Q.—That is also dealt with in your report, and I will come to that—the report that I have been referring to. “The Ontario Town and Farm Site Syndicate, Limited, was incorporated under Ontario Charter on such a date. On July 10th, 1903. It took over certain lands known as the Pope-Fowler lands, situate on either side of the Saskatchewan River, and numbering 193,937.49 acres.” That is the acreage you speak of? A.—What is the date of that?

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Q.—It is the annual meeting on the 23rd February, 1904, when the Directors are reporting to the shareholders just what has been done? A.—Yes.

Q.—Are those the figures you had in your mind? A.—Those were the figures as they appeared at that time.

Q.—Has there been any substantial alteration in them? A.—Yes, if you take 1905 you will probably find a different set of figures, and if you take the present time you will still find a different set of figures.

Q.—But was there at any time turned over to the Great West Land Company, or did the result ever pan out at 200,000 acres? A.—No. That is the original block you are speaking of?

Q.—Yes I am speaking of the original? A.—Yes.

Q.—I do not want in dealing with so large a matter to stick in the bark for a little difference in figures. It is approximately 194,000 acres? A.—Approximately, but unadjusted still.

Q.—Then I see that at that time your Report recognized the stock adjustment to be upon the basis of acreage, because the report proceeds, "For these lands \$146,968.74 was to be paid in stock of the Company at par?" A.—That was on the basis of adjusting stock as well as adjusting the money payment.

Q.—The stock has never been adjusted? A.—Well, by way of explanation with reference to that; there were two considerations. It seemed to be in the first place, troublesome to make the double adjustments and in the reading of the contracts there is some doubt, or appeared to be some doubt and the view that was taken at first when that Report was brought down was that we would conduct the book-keeping on the basis of adjusting for both the stock and the money payments. Then the idea came up that if we paid the full amount of the stock, that is the fifty-five thousand, without adjusting it down according to the acreage, that it would save payments of cash to that extent, which was a point to be gained, and that it would prevent the trouble of a double adjustment. And then the accounts were kept and the books were arranged, in so far as the books were arranged, on the basis of keeping the stock payment absolutely at fifty-five thousand, and adjusting the money payments down with the idea that when the money payments plus the stock payments were made, then

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that the lands should be paid for in regard to the exact quantity of lands when finally adjusted by the two, the cash payments and the stock payments. Have I made myself clear on that?

Q.—I understand perfectly well what you mean. The first observation I offer to you with regard to that is that as the stock was the profit, you were keeping the profit up at the expense of the shareholders? A.—Well, at that time it was not considered that the stock—

Q.—That, however, was a trifling matter? A.—That did not enter into the consideration at all.

Q.—Then you have paid, you have told me, all that has been paid by anybody in respect of the total selection by Pope and Fowler to the C.P.R.? A.—Yes.

Q.—And you have paid to Pope and Fowler their share of the profits upon the same basis upon which you have been paid to the C.P.R.? A.—On the adjusting basis.

Q.—On the same basis that you have been paying to the C.P.R.? A.—Yes.

Q.—You have not at all considered that the payments to the C.P.R. might possibly have been upon a larger acreage? A.—Than the real acreage?

Q.—Yes? A.—No, we have absolutely guarded against that.

Q.—You have guarded against that, in what way? A.—In paying them only on their contract which we assumed, the Pope and Fowler contract with them of \$3.50 per acre, paying them that amount on the acreage as adjusted.

Q.—Now, will you be able to show us the account which adjusts anything between you and Pope and Fowler as to C.P.R. payments? Perhaps you are not aware that Pope and Fowler did not give you all they selected, or are you? A.—Well, I think they gave us all that we contracted for under that schedule.

Q.—That is not the question I asked you. They transferred their option to you, you know. Did they give you all that they selected or did you understand that they did not? I want to know what your understanding was about that? A.—My understanding about that is this. Under that contract and the schedules which are a part of it, we got all that were defined in the schedule. If that were 200,000 that is what we contracted for; if it was less that was what we contracted for, under the variation

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clause of the contract. Then in addition to that—

Q.—I have to ask you to pause for a moment. The question I asked you was, whether you were aware that Pope and Fowler did not hand over to you, or rather to your company, all the lands they selected under their option with the C.P.R.? A.—Well, I don't understand what you mean by that.

Q.—I will try to make the question plain? A.—I am trying to explain to you exactly what the transaction was. You are trying for something else.

Q.—If you will do what I ask you and direct your attention to the question I am asking; are you aware that Pope and Fowler did not transfer to the Great West Land Company all the lands they selected under the C. P. R. option? A.—By the C. P. R. option what do you mean? The option which is there, in that document?

Q.—No, I am asking about the lands they selected? A.—Oh, I know nothing about that. Now I understand your question. Let us be perfectly plain with the question; that is my understanding of your question.

Q.—The question is perfectly plain. I will put it to you again. Were you aware that Pope and Fowler did not hand over to the Great West Land Company all the lands that they selected under their C. P. R. option? That is a very plain question? A.—Well, I intend to know exactly what that means before I answer it, Mr. Shepley.

Q.—Do you say you do not know what I mean? A.—I am not sure that there is not some difference between yourself and myself as to the meaning of that and I must have the right of knowing what I am going to answer before I answer.

Q.—Do you know what I mean when I speak of the right of selection under their option with the C. P. R.? A.—Is this what you mean? Will you allow me to put it so that I can understand you?

Q.—No, I would rather you would direct your mind towards the question I am asking you? A.—Well, I do not intend to answer a question that I am not thoroughly satisfied I know the bearings of.

MR. NESBITT: Let him say what is in his mind, and see whether or not you are at cross purposes? A.—I will answer what comes to my mind. If you are inefficient in putting into

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my mind the right thing, or I am so dull that I cannot get it, I am not going to be led astray by the answer I am going to make. I am going to know what is in my own noddle before I answer it.

MR. SHEPLEY: I will try to get out what is in your mind? A.—I think I can get out what is in my mind more quickly if you will allow me to make my statement.

Q.—If you will listen to me I will explain to you the thing I want answered? A.—Well, now we will try again.

Q.—You are aware, as you have told me already this morning, that Pope and Fowler had a right to range over a certain larger area and to select up to 200,000 acres out of it. Is that right? A.—I had a knowledge that Pope and Fowler had the privilege of selecting—from what area I did not know—200,000 acres of land, more or less. That they did select—

Q.—I have not come to that yet. You knew that Pope and Fowler had a right to select 200,000 acres, more or less, out of an area that you did not know? A.—Yes.

Q.—But, presumably an area greater than 200,000? A.—Presumably greater.

Q.—Then you supposed or were aware, were you, that Pope and Fowler in pursuance of that privilege went over the area, whatever it was, and did make a selection? A.—Yes, we are clear on that.

Q.—200,000 acres, more or less? A.—Which selection—

Q.—I have not asked you anything else yet. You understand that they made a selection? A.—Yes.

Q.—Do you know, whether or not, Pope and Fowler turned over to the Great West Land Company all the lands so selected? Now, is that plain? A.—Yes. I understand what you are getting at now. I do not know whether they turned over all the lands that they selected under their right, to the Great West Company, under the contract of 1903. I do not know whether they did or whether they did not.

Q.—What did you suppose you were dealing with when you were dealing with them with regard to their option? A.—I supposed that I was dealing with exactly what is laid down and described in the option itself, where every section and township is given and where it is said that that is to be 200,000 acres more or less.

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I supposed that that was all turned over and that the Great West Land received that.

Q.—Now, if you will pay attention to the question again and try again to answer it, because you will do better next time if you pay attention. Did you suppose that Pope and Fowler were turning over all the lands they had selected? A.—I did not know whether they were turning over all the lands that they had selected at any and every time from the C. P. R. I told you that before.

Q.—You are introducing something into your answer that I have not put in the question. Did you suppose that Pope and Fowler were turning over to the Great West Land Company all the lands that they had selected, using that word in the sense in which you have told me you understand it? A.—In the sense that I understand it? Well, with the greatest desire to tell exactly what I believe to be the case I cannot give you any other answer than I have given.

Q.—Then I will commence at the beginning and go over it again, Mr. Foster. If you say you do not understand, I must take your answer. You were aware, as you have told me, that under their original privilege from the C. P. R. they had a right to select 200,000 acres more or less, out of a larger area? A.—Yes.

Q.—You have also told me that you are aware that in pursuance of that privilege they made a selection of 200,000 acres more or less? A.—Yes.

Q.—My question is whether you are aware, do you know whether or not, Pope and Fowler turned over to the Great West Land Company all the lands so selected? Now, is that plain? A.—By that option of 1903? The first option?

Q.—All the lands so selected? A.—I think you might assist me in that respect. What do you mean? Do you mean as to whether they handed over all the lands selected under that first option? Now, I have answered your two first questions, the two questions that you put to me, with a clear answer; first that I knew they were selecting from a larger area, that they had a larger area to select from. Secondly, that I knew they had made their selection. Your third question is, do you know whether or not they handed over to you all that they selected?

Q.—All that they so selected in pursuance of that privilege? A.—And

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I want that, before I answer it, qualified as to whether they handed over to us by that instrument all they selected.

Q.—Whether you ever got title to, ever got possession of, ever got any rights in respect of the whole of the selection? A.—We never got any rights to any part of the selection but the part that is included in that option.

Q.—Is that the whole or less than the whole, to your knowledge? A.—I do not know whether it is the whole or less than the whole.

Q.—Do you suppose it to be the whole? A.—I don't suppose anything about it.

Q.—Did you suppose it to be the whole when you purchased? A.—I supposed it to be their selection.

Q.—The whole of it? The whole of their selection? A.—Well, I think I must say yes, I supposed it to be the whole of their selection.

Q.—Now, that is what I have been trying to get from you for a long time? A.—I have no knowledge as to whether it was or was not.

Q.—Have you ascertained since that it was not the whole of their selection? A.—Made at that time?

Q.—Yes? A.—No, I have not any definite information.

Q.—Have you any indefinite information? A.—Well, the evidence you read this morning goes to show me that they selected more.

Q.—That is what they rejected, according to the evidence I read you this morning. I am asking now about what they selected? A.—Then I must make you the answer that I did not know that they selected more than they sold to us under that option.

Q.—That is perfectly plain, perfectly clear; it has taken us a long time, but I am willing to assume that it was altogether, if you like, my fault in not making myself clear? A.—It was probably the fault of both of us, but I want you to understand that I had no other idea than to give you a straight answer when I understood straightly what the question was.

Q.—And you never were made aware when you were dealing with them for the turning over of these lands at a profit of \$1 an acre that they were retaining any for their own private benefit? A.—I was not.

Q.—And you are surprised now to hear that? A.—Well, I did not know

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it before. I think that is all I can say in that respect.

Q.—Having regard to the ordinary instincts of mankind, what would you expect them to retain, the good or bad lands, the best or the worst, if they were passing on lands and retaining some? A.—That would depend entirely on their point of view and the motives they had. I cannot express, nor will not express any opinion upon it. I am not here to judge other men who act from motives that I do not know.

Q.—Do you say that you have some indefinite information upon this subject? A.—You read here this morning—

Q.—That is not about the selected lands at all? A.—Very well, then.

Q.—That is about the lands which were rejected. Then, did you understand and did your associates understand and did the Company, so far as it was taken into your confidence, understand that the 8,000 odd acres which were subsequently transferred, were transferred because the selected lands would not make 200,000 acres and so as to get the full quantity that was required? A.—Will you repeat that question now, until I get it?

Q.—Were the additional 8,640 acres turned over with the view of making up the quantity which they were not able to hand to you out of the selected lands? A.—Yes, and no. My recollection of that is this. That after we came to compare the schedules we came to the conclusion that there might not be the full 200,000 acres. You remember I told you a little while ago that we found that some few quarter sections, not a very large amount, I don't know exactly, I cannot say what the amount was, were included in the schedules, but which the C.P.R. would not be able to hand over as they found out, one or two having been sold and I think some squatters' rights or whatever it was, but that was a very small amount, not a very large amount, and the idea we formed was that probably that would not amount to the 200,000 acres and that the 8,640 acres might be taken because we wanted at least 200,000 acres.

Q.—I read to you now from the depositions of Mr. Lefurgey, a statement dated the 13th June, 1904.

“Statement re lands bought from C.P.R. by R. H. Pope and G. W. Fowler.

Land bought from C.P.R., 200,810 acres.

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Land sold to the Great West Land Company 193,937.40.

Land still held 6,878.60 acres.”

Is that new to you? A.—That is new to me, yes.

Q.—You are, perhaps, surprised at it? A.—I am not going to express my sentiments about it.

Q.—You are not willing to express any sentiment about it, whether you are surprised or not? A.—No.

Q.—It is new to you, at all events? A.—It is new to me.

Q.—What were you doing to protect your company and your shareholders in this transaction with Fowler and Pope? A.—We were looking after the interests of the Company.

Q.—This is a thing that you would have ascertained easily if you had made any inquiry, is it not? A.—I made no inquiry. I had no idea of directing an inquiry in that direction at all.

Q.—If the proposition from Pope and Fowler to you had been “we are going to keep some of our selected lands and we are going to hand over other selected lands” it would have been a different proposition, of course? A.—Quite certain. Then we would have seen that that did not occur.

Q.—You would have seen that that did not occur. You are quite sure, Mr. Foster, that you have no interest in the land they are retaining, if they are retaining any? A.—I have told you, how many times do you want me to swear that?

Q.—I have not asked you with regard to these lands yet? A.—I will then give you an answer that will make it unnecessary for you to ask any other. I had no interest, have no interest, never expected to have any interest in any lands bought by Pope and Fowler from the C.P.R. railway, selected before that time, at that time or since that time. Now, I cannot make it any stronger than that.

Q.—You have told me, you know, Mr. Foster—I do not want to quarrel Mr. Foster—I do not quarrel with the emphasis of your reply, that you were expecting Pope and Fowler to hand over all their selected lands to the Great West Land Company. You do not want to modify that, do you? A.—I certainly modify it if you put it in that way. I have no recollection and certainly no intention of telling you—

Q.—I am not putting it any differently from what I put it before? A.—Well, there we are at a disagree-

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ment again. We might as well try to get on common ground.

Q.—It is my ground that we must get on, Mr. Foster? A.—Well, if it is good ground I will stand alongside of you, of course.

Q.—Did you tell me that you expected that Pope and Fowler were turning over all the lands they had selected? A.—I told you to my best knowledge that I did not know whether they were turning over all the lands that they had selected from the C.P.R. or not.

Q.—Did you afterwards say, Yes, to the very question I am putting now?

A.—I afterwards said Yes to this, that I expected and I believe, at the present time, that my expectation has been borne out, that they were handing over to us all the lands that under that contract were scheduled and that they were bound to hand over to us with the exception that I put in, of some little adjustment that had to take place where the C.P.R. gave others instead of some few quarter sections or sections which were found to be either sold or occupied.

Q. I won't say you have repeated yourself, because, perhaps, I have repeated myself and we may be common offenders in that respect, but the question I want you to answer is, were you expecting and believing that under that contract they were turning over to you all the lands that they had selected? You have told me you were? A.—I did not, Mr. Shepley. I do not want to contradict you.

Q.—Did you know they were retaining any? A.—Did I know they were retaining any lands they had selected from the larger area?

Q.—Yes? A.—I did not know whether they were or not.

Q.—Do you say that you thought they were? A.—I do not say that I thought they were or were not.

Q.—Did you think that they were not? Did you think that they were giving you everything? A.—I thought they were giving us every acre of the land that they contracted to give.

Q.—Did you think that they had contracted to give you all they had selected? A.—Yes.

Q.—That is what you told me before? A.—Yes, yes.

Q.—Then if you thought they were giving you all they had contracted to give you, all they had selected, you were getting an interest in all they had selected? A.—There again you and I are at variance in this respect;

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I had simply regard to know nothing else of any other lands. I have simply regard to those lands which were defined in the schedule of the contract of 1903. Whether they had more lands than that that they had selected I did not know, but I did say that those lands that they contracted to give us were given to us, with the slight exceptions that I state.

Q.—Now, I should have thought that it followed that if you believed you were getting all the selected lands, you believed that you were, yourself getting an interest in all the selected lands. I should have thought that followed as plainly as possible? A.—We certainly were getting an interest in all the selected lands that were contracted to us under that contract.

Q.—And you thought that what was contracted under that contract was all the selected lands? A.—So far as I knew they were.

Q.—And so far as you knew you were getting an interest, the interest which has been spoken of? A.—Yes.

Q.—In respect of all the selected lands? A.—Yes.

Q.—And you never were informed, your suspicions never were aroused, that out of the selected lands, an area was being retained? Your suspicions were not aroused at all? A.—No.

Q.—Are you able to say now that you hear this for the first time to-day, that the Great West Land Company has not paid for all the selected lands? A.—I am able to say that the Great West Land Company has not paid for any lands that have not been delivered to it, by the C. P. R. under its contract, and I am also able to say, what I think I have said before, that my idea was that in the contract of 1903 there were defined the lands which they had selected and they were turned over to us.

Q.—You do not know and you never heard of Fowler and Pope making any payments to the C.P.R.? A.—They made those first payments.

Q.—I mean except those that you refunded? A.—And that is all.

Q.—And you refunded those in toto? A.—Refunded which in toto?

Q.—The payments they had made? A.—We paid those.

Q.—Paid them in full? A.—Yes. Part to the C.P.R. and part to Pope and Fowler.

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Q.—And you did not make any reduction in respect of lands retained?

A.—No lands were retained.

Q.—You do not know that they were; you did not know they were until I pointed it out to you this morning? A.—No lands were retained under that contract, certainly. That is all we were guided by and all I knew about.

Q.—They were under obligation to pay the C. P. R. upon a 200,000 acre basis? A.—Yes.

Q.—There is no doubt about that? A.—No doubt about that.

Q.—And the payments they had made, they had made upon that basis? A.—I suppose so.

Q.—And the payments you refunded to them had been made upon that basis and you made no reduction in the refund? A.—Yes.

Q.—That is right, is it not? A.—Yes.

Q.—You do not know of Pope and Fowler ever paying anything themselves to the C. P. R. in respect of the lands they had selected, do you, except the first payment, which you refunded? A.—Nothing.

Q.—And for all you know to the contrary the C. P. R. has been paid in full? A.—I don't know whether the final adjustment is made now or not.

Q.—In full upon the 200,000 acre basis? A.—What I mean to say, and it seems to me as clear as daylight, is that we were as the Great Western Company to pay \$3.50 to the C.P.R. and a portion in cash to Pope and Fowler and a portion in stock to Pope and Fowler, all based on a possible acreage of 200,000, and that neither Pope nor Fowler, to speak only as to their portion of the money profits, nor the C. P. R. as to the debt due to them, because adjustments have been made, has been paid anything more than will make that price upon the acreage as, when the final adjustment is consummated, it appears that the Great West Land Company has got. Now those were my instructions to Mr. McWhinney and I know that Mr. McWhinney has carried them out. I myself have been with him when we figured out the deductions to be taken off of Pope and Fowler's payment, and also off the C. P. R.'s payment. It was impossible to make the deductions accurate until we got the final adjustment, and I do not know how long ago, but it is not many weeks ago that we received the last two

township maps, which give the exact acreage. We bought 200,000 acres more or less; it is defined in townships and sections; the exact acreage is only known when the final survey is made by the Government and the acreage is put upon it, and the last two township maps only came in, I think, a few weeks or a few months ago. I asked Mr. McWhinney the other day if he was able now to get at the absolute acreage that we got. He said that he had received the last two maps and as soon as he had a little time he would be able to figure out the exact acreage and make the proper adjustments. Now, if it turns out that we have paid the C. P. R. one single dollar more than we ought to have paid them, on the final adjustment the C. P. R., of course, adjusts that matter with us and pays us back that amount, if there is any. In exactly the same way with Pope and Fowler in trust. But if there is the idea that we have paid—taking into account what we have paid to the C. P. R. to Pope and Fowler, both in stock and in cash, one cent more than at the rate of \$5 per acre for every acre received, that is a wrong impression. We have not. Now, after all this controversy between us that is the simplest and plainest way that I can put it, and if it turns out, by an examination of the books that there has been an over-payment in any respect that is to be adjusted. Now we have paid to—I think I might be allowed to give this in furtherance of my statement?

Q.—It really has not anything to do with the subject that I am inquiring into or attempting to inquire into? A.—Then I have misapprehended your scope, but any way you will not object to my making the additional statement so long as I have made so much?

Q.—How long will it take? A.—Not two minutes. That with reference to each one of the parties interested, so far as they have come to our knowledge in making them their payments of money, we have adjusted it so far as we know the acreage at the time. We still hold the stock of all these parties and it is perfectly understood that if, in the final adjustment there is a little less acreage than we have thought at the time, that they are subject to an adjustment with reference to the amounts that were paid to them.

Q.—This is from Mr. Pope's evidence at page 51:

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“Q.—What land was kept out of the 200,000 acres, reserved by the syndicate? A.—Well, 7,000 acres approximately.

Q.—For what purpose? A.—The syndicate's purpose.

Q.—That is the syndicate were to hold that themselves? A.—Yes.

Q.—Who arranged to keep out the 7,000 acres from the sale?

WITNESS: Who made the selection of the 7,000?

COUNSEL: Who arranged to keep that out? What members of the syndicate? A.—Well, not a meeting of the syndicate.

Q.—You never had a meeting? A.—It was a matter of conversation between myself and Mr. Fowler, for two, and Mr. Lefurgey for three, and I fancy Mr. Bennett, and, as far as I remember, rather than a meeting, it was while we were all in Ottawa together and we talked the matter over and we decided to keep 7,000 acres.

Q.—When was that? A.—It would be just about the time we were making the sale. I don't just remember what the dates are.”

That is what Mr. Pope says about it. He says:—“I tell you it was in the interests of the syndicate.

Q.—You did not make it up to them and gave them 8,640 acres more? A.—No, not the syndicate.

Q.—Well, the same parties that held the land? A.—No, not at all.

Q.—Pope and Fowler held the 200,000 acres? A.—That was an after consideration.

Q.—And Pope and Fowler held 17,000 acres? A.—That is another bargain. They are not associated together.

Q.—You made the bargains at the same time, practically? A.—No, not at all at the same time. Even if it was the same time it would not make any difference, it was a different bargain. Mr. Fowler made the trade and he knows the details better than I do.”

This is what he says about the sale to the Company:—

“We said we would sell them 200,000 acres more or less and there was no discussion.”

That is 200,000 acres, more or less, was what they were professing to sell to you, and when it fell under that you did not make any inquiries. Did you really suppose that Mr. Pope and Mr. Fowler, with the right of selecting 200,000 acres at a cheap price had failed to select their whole 200,000? A.—No, I did not suppose that they

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had done anything else than select their 200,000, more or less, subject to the adjustment of acreage.

Q.—If it was such a brilliant proposition, they would not fall short 7,000 acres in their selection, would they? It does not sound plausible, does it? A.—I don't know.

Q.—At all events when they fell short 7,000 you did not make any inquiries to find out whether you were getting all you thought you were getting or not? A.—I have no answer to give you but the one I have already given you, that without any knowledge of any of these things that you have brought to my attention this morning, we simply took that document as defining the area which we were to purchase and which we had contracted to get, and that, whether that were more or less than 200,000, we paid for the acreage that we got and we got it out of that and that of those defined portions some few sections, but a small amount, had to be exchanged for others, but for every quarter section or section that was found to be sold or occupied we received from the C.P.R. at our own selection an equivalent, so that I had no other thought at all than that I was receiving the 200,000 acres, more or less, for which we had contracted. If we did not get it we did not pay for it, that is certain.

Q.—Then when the 8,640 acres were taken over, with whom did you do your bargaining? A.—Pope and Fowler.

Q.—Both of them? A.—Well, Pope was acting for Pope and Fowler.

Q.—Your bargaining, then, was with Pope? A.—Yes.

Q.—The distribution of the purchase money, the cash and stock, was not like the distribution in the case of the larger block? A.—Yes, with the exception of the fractional part just the same, wasn't it?

Q.—Do you say so? A.—Yes.

Q.—In the one case they were getting a quarter in stock. In this case they were getting nearly half in stock? A.—Their terms were \$5 per acre.

Q.—Of which they got \$1 profit. Now, under the old arrangement in respect of that dollar they would get three-fourths or 75 cents in cash and 25 cents in stock? A.—Under that arrangement they sold the land at \$5. They take one dollar in stock.

Q. I am pointing out to you that the distribution as between stock and cash was different in the case of the

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8,000 acres. If you assented to that I was going to ask you why the difference was made? A.—In the 200,000 block they received \$4.50 per acre and took twenty-five or on that basis in stock. In the second they sold the land at \$5 per acre and took \$1 in stock.

Q.—Why the difference? A.—That was the bargain that was made.

Q.—What was the discussion between you? A.—I think that was an offer we made them.

Q.—Then the suggestion to buy came from you? A.—Oh no, the suggestion to sell came from Pope and Fowler; and the suggestion as to the prices, the arrangement of the prices as to stock and cash came from us. I think we made them that proposition by telegram.

Q.—Why did you make them an offer with more stock in it than there was in the other offer which they had accepted? A.—Well, that would be more favorable for the company.

Q.—Do you remember any discussion about it? A.—I remember no discussion about it, except that I consulted—I think their terms at first were, I am not certain, \$5 per acre and 50 cents in stock, and I think that after consultation we offered them the terms that we did offer at the last and they accepted them.

Q.—Was there any talk of this 8,000 acre transaction when the other was carried through? A.—No sir.

Q.—None whatever? A.—None whatever.

Q.—Have you heard of the remaining part of the 17,000 acres being sold? A.—I have not. I know nothing about it.

Q.—Was there any correspondence upon the subject of that bargain? A.—Of the 8,640?

Q.—Yes? A.—Simply an offer with a price.

JUDGE MAC TAVISH: An offer to sell, do you mean? A.—An offer to sell, with a price attached, and an offer to take at the price that we adjudged proper.

MR. SHEPLEY: Where are those papers now? A.—Oh, I think they must be in the records.

Q.—Do you think you can find them? A.—I will find them if they are there, Mr. Shepley. As I recollect it, it is telegraphic. I think we telegraphed them in the end that we would take the lands if they would give them to us at that price, so much in stock.

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Q.—I suppose it was you who were conducting this correspondence? A.

—Yes, I conducted the correspondence.

Q.—Were you in consultation with Mr. Wilson and Mr. McGillivray about it before you dealt with it? A.—Yes.

Q.—Then I come to another matter, still connected with the Great West Land Company. You told me yesterday that when the Union Trust Company was invited to finance the proposition—and indeed the minutes show that—that the Union Trust Company was to have 237 shares—A.—And a half.

Q.—And a half, as the consideration for financing the transaction? A.—Yes.

Q.—And that, you told me yesterday, was to be absolutely the property of the Union Trust Company? A.—Under the contract as it was then made.

Q.—Then, subsequently, when the transaction was put into the shape of a mortgage? A.—November 1905.

Q.—At that date—I am just going to refer you to the minutes—there seems to have been an adjourned meeting. “Minutes of the directors, November 7th, 1905. Mr. Stevenson, Mr. McGillivray, Mr. Davidson, Mr. Ross, Mr. Wilson and Mr. Foster, being present.” It is stated in the minute that some discussion was had with reference to the Great West Land Company, and the decision of the Union Trust Company in regard thereto. This matter, however, was left over to be taken up at the adjourned meeting, and the meeting then adjourned until Monday the 13th November at half-past two o’clock. Do you remember that meeting of the 13th November? I mean, have you an independent recollection of it? A.—I remember that we had such a meeting and if the date is there at that I should suppose that is the time.

Q.—Then there is a meeting of November 13th. “The adjourned meeting of the Board of Directors was held in the office of the Union Trust Company at 2.30 p.m.” The same directors were present as at the meeting of the 7th. You say you have a recollection of that meeting? A.—Yes.

Q.—You kept a book in which the directors put their signatures when they attended a meeting, did you not? A.—Yes.

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Q.—And this is the book here, is it not? A.—That is the book.

Q.—You recognize it. Has your attention been directed to this book before in connection with this transaction? A.—No.

Q.—It was always signed, was it not, that was the usual custom? A.—The usual custom, that is right.

Q.—Wasn't it more than usual? Wasn't it invariable? A.—No, I will tell you what would occur; sometimes a director would come in after the book had been signed and it might be that his attention would not be called to it, and it might be discovered afterwards and the book would be either taken to him, if he was within the building, so that he could sign as being present or we would wait until the next meeting came at which he was present and then sign his name.

Q.—But it was your rule to have the signatures? A.—Oh yes, that was the rule.

Q.—Now, I see that there are the signatures in respect of the meeting of the 7th November, and the next set of signatures is the 26th December, so that there are no signatures for the meeting of the 13th November? A.—Is that the adjourned meeting?

Q.—Yes, that is the adjourned meeting. How do you account for that? A.—It must have been an omission that is all. There is a meeting here of November 7th and a meeting of December 26th.

Q.—And nothing between? A.—There certainly were meetings between those.

Q.—The matter may be of some importance because it was at this adjourned meeting, when there are no signatures of directors in the book, where they are always expected to be placed, that the resolution was passed requiring the stock received under the former arrangement, the 237 shares and the 100 shares to the Doctor to be released to the original owner. That was an important matter? A.—That is the meeting of the 13th November or the 28th?

Q.—That is the meeting which is said to have taken place on the 13th November, according to the minute? A.—That does not appear in this minute book?

Q.—There do not appear to be any signatures of any directors present at any meeting on that day? A.—No.

Q.—Who wrote up these minutes? A.—I did.

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Q.—That was rather an important question, was it not? A.—Yes.

Q.—The question of having the Union Trust Company give up what it had bargained for? A.—Yes.

Q.—Do you remember any discussion about it? A.—I do.

Q.—At that meeting? A.—At the adjourned meeting.

Q.—At the meeting said to have taken place on the 13th November? A.—Well, it not only is said to have taken place, but it did take place, Mr. Shepley. I recollect that the matter was discussed at the first meeting, and also at the adjourned meeting, and fully discussed as such an important matter should be.

Q.—Tell me what the discussion was that you remember? A.—The discussion proceeded upon the proposition made by Mr. Stevenson who objected to the security being any longer in the form of a partnership and stock arrangement; he preferred for various reasons, that it should be put into the shape of the straight loan and that the Union Trust Company should have an inclusive mortgage upon everything and should give up its stock.

Q.—That is the stock that represented the advances? A.—Yes, all stock, as I understood it.

Q.—What did he say that made you think he meant the stock that the company had earned and which had been given to it? A.—The whole discussion led to that.

Q.—Then, if the whole discussion led to that you can, perhaps tell me what was said about it? A.—It is impossible for me to detail conversations which took place then.

Q.—You are very clear indeed with reference to Mr. Stevenson's attitude? A.—I am.

Q.—With regard to the taking of a mortgage and giving up the stock which represented advances? A.—Yes I remember very clearly the main points of the business that was conducted at that time, but it is impossible for me to remember the individual discussions that took place. Now, if you will let me give you my impressions I will give them to you in full.

Q.—I would rather first see whether you can remember. Do you remember at all anybody saying that the 237 shares were to be given up although they were earned and did not cease to be earned by changing the transaction? A.—Yes.

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Q.—Whom do you remember as speaking about it? A.—I remember that I myself spoke about it.

Q.—What did you say? A.—I said this in reply or in discussing the question upon Mr. Stevenson's proposition that we should go to a straight mortgage and that the Union Trust Company should give up its stock. I said, as far as I can recollect, this, and my recollection is, as to the point I made, very clear, that while that would not be to the disadvantage of the people who held the stock, that I thought it would be to the disadvantage of the Union Trust Company, because I believed that if they held that bonus stock they would have a profit, over and above the interest that they would receive and I believed that their shares also would bring them in par or more than par and they would have some profit on that. Now, I am clear, absolutely clear and distinct on that.

Q.—That you were advocating at that Board meeting the company retaining the bonus stock? A.—I absolutely put it that way.

Q.—Who opposed it? A.—Mr. Stevenson opposed it.

Q.—Mr. Stevenson advocated throwing it away, giving it back? A.—A riddance of stock entirely.

Q.—Do you say that referred specifically to the bonus stock? A.—So far as I understood, it referred to the whole of the stock. Now, let me say this in justice to Mr. Stevenson.

Q.—Wait a moment. Mr. Stevenson, perhaps, can take care of himself. Mr. Stevenson's proposal was to turn the advances into a mortgage, is that right? A.—In part. It is not the whole of it.

Q.—Did he mention specifically any stock at all? A.—He mentioned stock specifically.

Q.—Did he distinguish in what he said between the two kinds of stock? A.—I don't know whether he distinguished between the two kinds of stock or whether he simply referred to stock generally. I would not say that he did refer to it in any other way than to say that it was stock.

Q.—And you did not suppose that Mr. Stevenson was advocating under the cover of a general proposition to turn the advances into a mortgage, that he was advocating giving up any rights of the company to the bonus stock? A.—I understood that he was advocating giving up all stock, whatsoever, and getting out of it entirely.

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Q.—Because he used the generic term, stock? A.—Partly that and for the reason that I gave you as well.

Q.—And do you say that you opposed Mr. Stevenson as to the bonus stock? A.—I told you what I did.

Q.—You said "No, don't give up the bonus stock?" A.—I never said that.

Q.—What did you say? A.—I said what I told you I said.

Q.—That is the same thing in effect? A.—No, it is not; it is quite different.

MR. NESBITT: You are very unfair in your way of putting it, if you do not mind me saying so.

MR. SHEPLEY: I do mind? A.—I was suggesting. I was not opposing. I have told you before that whatever the Foresters represented as wanted in these discussions was carried out. Now I tell you just as honestly, Mr. Shepley, that I did not put it in the words you say, but that I did suggest and say to Mr. Stevenson, and I am saying this on my oath, that while that would be more profitable to us who held the stock, that I did not think it was in the interests of the Union Trust Company to have it done, because, in the first place, I believed their bonus stock would be valuable to them, and that the stock they held for advances which they commuted into stock would also show them a profit.

Q.—What was Mr. Stevenson's response to that? A.—My recollection of the drift of Mr. Stevenson's remarks is that he wanted to be rid of stock transactions absolutely.

Q.—You said a moment ago that he did not say anything specifically with regard to the bonus stock? A.—Well, I am not going to swear that he mentioned the several kinds of stock, but I am going to swear that the proposition as he put it conveyed to my mind that he proposed to get rid of all stocks, wipe them out entirely, have no partnership in the concern, and go back to the plan of a straight loan and nothing else.

Q.—Were you advocating yourself the retention of the stock for advances? A.—I simply put it in the way in which I have put it to you.

Q.—But about the stock for advances? A.—Yes, the stock for advances, I suggested that it would be more profitable to the Union Trust Company to keep them both, to keep them all.

Q.—Will you say you specifically mentioned the bonus stock? A.—Yes.

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Q.—You will go so far as that? A.—I will go so far as that.

Q.—You were advocating the retention of both, as I understand you to say now, but you did specifically advocate the retention of the bonus stock even if the other was given up, is that right? A.—I placed them together.

Q.—You did not distinguish between them? A.—I distinguished in name but I placed them exactly as I told you I placed them, that I thought it would be more profitable for the Union Trust Company to keep the stock because in respect of the bonus stock they would make, I believed, a handsome profit and with reference to the advances stock, if they call it that, that they would realize some profit.

Q.—You put them together? A.—I put them together.

Q.—You bracketed them together in your advocacy? A.—Yes.

Q.—And Mr. Stevenson's reply, so far as you are able to tell us was a general reply? A.—Conveyed the impression to my mind that he did not want to have anything to do with any of the stocks.

Q.—It was a general observation that he made with regard to stock? A.—Yes. Now I think I must say this, Mr. Shepley, that Mr. Stevenson gave his impression of that before this Commission, and your Honors heard it?

JUDGE MAC TAVISH: Yes. A.—And Mr. Stevenson's impression as conveyed by that evidence was that he did not have in mind the bonus stock, but he only had reference to the other stock. Now, Mr. Stevenson's oath and opinion and impression is not traversed by my statement to-day, which must be my conception of what took place; and as Mr. Stevenson himself was good enough to say, he would not say that I had not that impression if I stated that I had; I say the same with reference to him.

MR. SHEPLEY: I suppose there is not any doubt that you were getting an advantage by the giving of that stock? A.—Undoubtedly so, and I stated that in the discussion.

Q.—Now, this minute also deals with the Doctor's stock? A.—Exactly the same way.

Q.—Was anything specifically mentioned about that stock at the meeting? A.—What was mentioned, so far as I know, was with reference to the—

Q.—Do you remember that the Doctor's stock was mentioned? A.—All the bonus stock was mentioned.

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Q.—Was it mentioned otherwise than in a general way? A.—It was mentioned, the whole of the bonus stock.

Q.—You were not talking about directors' stock, directors' qualification stock? A.—Oh no, I did not say we were.

Q.—Did you mention the Doctor's stock at all? A.—The Doctor's stock and the bonus stock were included in the stocks that we discussed.

Q.—Did you mention the Doctor's stock? A.—I mentioned the whole of the bonus stock.

Q.—Did you mention it otherwise than as the bonus stock? A.—I wouldn't swear whether I said it was the directors' stock or the Doctor's stock or whether it was bonus stock.

Q.—Will you swear that you referred in language to anything more specific than the bonus stock? A.—I will not swear positively. I know what I had in my mind and I know what was understood at the meeting.

Q.—Then do you say that Mr. Stevenson formally moved this resolution, do you say that as a matter of memory? A.—Yes, as a matter of memory.

Q.—He did not reduce his motion to writing and hand it in? A.—Well, he says he did not, but my impression would have been that he did give it in writing, but if he positively swears that he did not, then I would not positively swear that he did, but I would swear that the substance of Mr. Stevenson's proposition, whether it were written by himself or written at the time by anyone else, the substance of Mr. Stevenson's proposition—

Q.—As you understood it? A.—As I understood it, is in that resolution.

Q.—If he did not hand it in in writing, then, of course, the language is yours? A.—I don't know that it is mine or whether someone else.

Q.—You wrote up the minutes? A.—I wrote up the minutes, but my impression is that there was a resolution which I embodied in the minutes.

Q.—I say, if there was not, then the language here used is yours? A.—No, I don't think you have a right to infer that. Someone else at the Board may have written the resolution.

Q.—I say, if there was no written resolution by anybody presented at the Board? A.—Yes, if no written resolution was presented by anybody

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at the Board, then the resolution would be made up by myself, but my impression very strongly is that there was a written resolution and I should have said that the resolution was written by Mr. Stevenson himself. It may have been written by someone else.

Q.—Then we come to the next meeting, the meeting of the 28th, at which the documents prepared to carry out that arrangement were submitted and approved. "That the form of agreement between the Union Trust Company and the Great West Land Company as submitted by the solicitor pursuant to the resolution passed at the last meeting, be adopted." That does not, in specific terms, refer to the subject matter of the agreement, but it was the agreement by which, among other things, the bonus stock was given up? A.—Yes.

Q.—Now there are no signatures of the directors in respect of that meeting, are there, Mr. Foster? A.—No, I do not see them here.

Q.—Now, you will observe that it is the custom when the minutes of a meeting are confirmed to have the chairman so mark them? A.—Yes.

Q.—You will notice also that in respect of the meeting of the 7th November there is no confirmation of that kind? A.—That is the adjourned meeting?

Q.—No, the 7th. And then the adjourned meeting of the 13th similarly, there is no signature to that of any confirming chairman. Then at the next meeting of the Board of Directors, which is on November 28th, there is a place for confirmation and the word "Chairman" but it is not signed by any chairman? A.—Well, what are you reading from? Are those taken from the minute books?

Q.—This is said to be a full copy of the minute books, furnished to us as such? A.—And the minute book has not the certificate?

Q.—It has not? A.—Is the minute book here?

Q.—I will have it for you during the adjournment, if you want it. I am not professing to have compared it myself but I am assured that this is a full and exact copy? A.—What struck me just at this time was that this might be a copy and that the chairman's name was not copied in.

Q.—When we come to the meeting of the 26th of December, then we have a confirmation of that, do you see? A.—Yes.

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Q.—And so with the meeting of the 5th January? A.—Let us see who were the chairmen of those meetings. Mr. Stevenson being Vice-President, would be the chairman of this meeting, if he were there. Now here is your adjourned meeting. This minute would not be read until this Board meeting took place. Then Mr. Stevenson was the chairman and this was the adjourned meeting of the board. Now, did not Mr. Stevenson in his evidence say that at that adjourned meeting it was very hurried and he himself had to leave on his way to England?

Q.—That may be so? A.—That would give a reason why neither of these were signed.

Q.—The one of the 13th would not be signed that day but when it was confirmed at the subsequent meeting? A.—Yes, but he was the chairman. Mr. Stevenson, if he were there.

Q.—There is no statement of that in the minutes? A.—That is a matter of course. The Vice-President in the absence of the President takes the chair.

Q.—Does the person in the chair move resolutions? A.—It is quite possible, yes.

Q.—It is not frequent? A.—Oh well, I have seen it done very often. That would account for both of these.

Q.—That would only account for the one of the 7th? A.—Would not it account for this?

Q.—No, you do not sign on the day of the meeting? A.—No, but he went to England and did not get back for a month or two months.

Q.—But the confirming signature is the signature of the chairman on the day of the confirmation? A.—Well, I know that has taken place and often we wait for the chairman who was at the meeting, until he comes to the meeting again and often maybe two or three are signed at once.

Q.—Then your ideas, with all the lawyers you have there, are different from any deliberative bodies I have heard of? A.—Well, I have been in a great many deliberative bodies and held many directorships and I have seen minutes signed long afterwards. It is not strictly the right thing to do but it is done.

Q.—Was Doctor Oronhyatekha present at the meeting of the 13th November? A.—I don't think he was.

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Q.—At which you were deliberating about dealing with his shares of stock?
A.—No, I don't think he was.

Q.—Was he present at the meeting of the 28th November? A.—No, I don't think he was.

Q.—When the agreement was submitted? A.—I don't think he was.

Q.—Did you yourself have any discussion with him personally about his giving up his bonus stock? A.—Doctor Oronhyatekha at that time was far, far distant.

Q.—Then you did not? A.—I certainly did not. He was in India, I think, at that time. That is my impression that that was the time he was away. He went away about November of that year and he did not get back again till some time in the spring of 1906, and always, in his absence, Mr. Stevenson is the representative who does everything that is necessary to be done.

Q.—Now, of course, there was no consideration moving to the Doctor giving up his shares, he was to receive no consideration for giving up the shares? A.—Nothing at all.

Q.—Which were resolved to be given up in his absence; he received no consideration for that and was to receive none? A.—No.

Q.—And you told me yesterday that you understood that he had a right to deal with those shares as he saw fit and that you supposed he was dealing with them for the benefit of the company. Is that right? A.—I have not looked over my evidence with reference to that.

Q.—Is it right to-day? A.—I would like to look over that evidence. I am not sure that I would not put it a little differently, and say that if I had any idea at the time as to what was to be done with that 100 shares of stock I would say that it was put in the Doctor's name to be used for the benefit of the Great West Company. I think that what I said yesterday was the Union Trust Company, but if I make any revised statement in regard to that, I think I would put it that my impression, if I had any at the time, was that the Doctor held that stock to be used in some way to promote the Great West Land Company in its financial operations, or, if it were not so used, to come back to the original owners from whom it proceeded and from whom it went to him, without any consideration unless something were done to assist the company by means of that stock.

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JUDGE MacTAVISH: By "Company" you mean the Great West Land Company? A.—Yes, I think I put it so yesterday.

Q.—I think you used the word "Company" yesterday? A.—Just "Company?"

MR. SHEPLEY: You are not intending to modify what you said yesterday, that you did not suppose he was holding it for the benefit of the syndicate? You do not intend to modify that to-day, do you? A.—I think the best I can do is simply to hold to the statement I make now after having thought over the matter and revised my statement.

Q.—Do you say now that you had any idea he was holding for the benefit of the syndicate? A.—Well, I now have given you, Mr. Shepley, all I possibly can on that and you can make any deduction from that you like.

Q.—Do you look upon the transaction from the standpoint of the Union Trust Company as a prudent and reasonable transaction? A.—Which transaction?

Q.—Giving up the stock? A.—That is all dependent upon the point of view. Now, take the situation as it is.

Q.—From your point of view? A.—I am going to give you the point of view. There were three transactions.

Q.—Cannot you tell me whether you think it prudent, from your point of view? A.—I will tell you, but I think I must preface it by three observations and they will be very short.

Q.—Will you follow it by the observations and answer the question first? A.—I am going to answer your question at the end of my very short observations.

Q.—Please answer it first. Will you be so very good as to tell me from your point of view, as you stand there, whether you think it was a prudent transaction for the Union Trust Company? A.—I can answer that very easily. I don't think it was, from the standpoint of the Union Trust Company.

Q.—That is what I wanted to know. Now, if you want to make your three observations, make them? A.—Yes, there were three transactions. The first was when the proposition was taken and the Union Trust Company took up that agreement of the 22nd June, and everything is set out in full in that and in the appended agreements to which reference is made

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there. That was offered to the Union Trust Company; it was taken into deliberation, advice was taken, thoroughly considered, and the Union Trust Company, with Dr. Oronhyatekha there, accepted the proposition and if Dr. Oronhyatekha, as representing the Foresters, had raised his little finger against that proposition it would never have been passed and would have been taken immediately by those who had it in charge, somewhere else. It was done for a profit to the Union Trust Company. The second transaction was where they exercised the right, the option, to put their advances into stock. That was not urged by the Great West Land Company or any person in connection with it. It was decided upon after discussion.

Q.—That did not alter their right in respect of this bonus stock? A.—I am not talking about their right; I am just making a statement. That was decided upon after a discussion and decided, as the previous one had been, because in the opinion of the Board, it would be to the advantage of the Trust Company to have that change made, and that option exercised, and that that was on the initiative and the insistence of the Forestry representatives in the Board. Now we had, as far as the Great West Land Company is concerned, and the Union Trust Company is concerned, an absolute contract which was binding on both parties and which neither party could have abrogated without the consent of the other. We come up to the culmination on the 28th November, 1905, when on the initiative of the Forestry representative, and the insistence of the Forestry representative, and against our wishes—no, that is too strong—and without any insistence by us, a complete change was made and instead of being a stock partnership concern any longer it was thrown into a first mortgage. Now, my opinion on that is that you cannot eat your cake and keep it in the basket at the same time.

Q.—I do not mind your stating this, but— A.—I must give my view, if the Commissioners will allow me.

Q.—But I do not think you should express an opinion? A.—I think I should express my opinion with regard to it. If I am not allowed to, of course—it is simply this as to the prudence or justification of that action; the position was simply this, that under the preceding contract and as it then stood if there had been any loss, the Union Trust Company would

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have to have shouldered their proportion of that loss according to the stock they had for advancements. Mr. Stevenson seemed to have conceived the idea about that time that there was to be profit and might be a loss in the Great West Lands. He stated that here in his evidence, and to my mind it was because of the desire not to be in a position to have to shoulder a part of the loss that that arrangement was reversed and they took the first mortgage, which would give them the whole of the security to satisfy their advances, and the whole of the loss, if there were any, would fall upon those who held the stock. Now that being a binding agreement, which could not be given up or changed without the consent of both parties we made the consent and we made no objection, but the conditions, as we understood them were the conditions that I have stated, that the bonus stock should be given up. That is all I have to say with reference to that.

(Adjourned to 2 p.m.)

AFTERNOON SESSION.

Resumed at 2 p.m., October 4th 1906.

Examination of GEORGE E. FOSTER continued:

MR. SHEPLEY: I think you have told me you considered the abandonment of the bonus stock for the Union Trust Company an improvident act on the part of the company having regard to the interests of the company? A.—Yes.

Q.—Of course the stock did not carry any liability with it there was nothing to be lost by carrying it? A.—It was paid up.

Q.—No calls could be made in respect of it, whatever it was worth if it could have been held the Trust Company would have got the advantage of? A.—Yes.

Q.—In connection with that transaction do you recognize the susceptibility of abuse, was the term we used yesterday, in respect of the dual position? A.—I recognize the dual position as you have put it before several times.

Q.—And I suppose you recognize the necessity for the fullest possible disclosure to those who were interested? A.—Yes.

Q.—You had a meeting of the Great West Land Company on the

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28th November? A.—If it appears so by the minutes.

Q.—The directors of the Great West Land Company met in the Trust Company offices? A.—Yes.

Q.—At page 113 of the Land Company's book I find this minute: "There were present, Mr. Wilson, Mr. McGillivray, Mr. Foster and Mr. Scholfield. The Secretary submitted to the Board a proposal from the Union Trust Company offering to return to the company the stock heretofore taken therein in payment for moneys advanced and to accept a mortgage for all advances and interest thereon to date. Mr. Wilson, the Company's solicitor, presented an agreement between the Union Trust Company and the Great West Land Company and a mortgage for the purpose of carrying out the above proposal. The proposition was thoroughly discussed and on motion it was resolved that the following by-law be read and adopted and ordered to be submitted to a meeting of the shareholders of the company to be called on the 11th December, 1905"—that is the by-law authorizing the execution of this document—what discussion took place at the Great West Land Company? A.—I suppose a general discussion as to what had occurred at the Union Trust Company meeting, as to the views which had been presented and as to the resolution which had been passed—

Q.—I am rather appealing to your recollection than to your supposition? A.—I cannot recall just exactly what was said or for whom or it was stated.

Q.—Who was there to have anything explained to him there—poor Mr. Scholfield was the only one who did not know all about it? A.—He was one.

Q.—Was there any other one, Wilson, McGillivray, Foster, Scholfield? A.—No.

Q.—Do you really suggest there was anything in the nature of going through the form of explaining a transaction which was already thoroughly resolved upon so far as you were concerned? A.—I have no doubt at all that the transaction was placed before the members that were there, the new member Mr. Scholfield who was there—by new member I mean one who had not been with us—so that he perfectly understood what was proposed, and was able to come to his conclusion about it.

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Q.—Do you think the draft agreement was read? A.—I believe it was read.

Q.—Do you remember its being read? A.—I remember it being read, so far as my recollection goes it was read, because Mr. Scholfield had not heard it before.

Q.—What would you other three have done if Mr. Scholfield had objected? A.—We would have considered the objection, discussed the matter and come to an agreement.

Q.—And come to a conclusion? A.—As must always be done.

Q.—You were of course in a position to vote him out? A.—The majority always is.

Q.—And you would not have hesitated of course when matters had reached that stage to exercise your voting power? A.—I think we would have striven to have carried out the wish of the Union Trust Company as embodied in the resolution.

Q.—You would not have hesitated to vote down any opposition at this directors' meeting? A.—No I don't think we would.

Q.—You perhaps will have observed that in the minutes of this meeting so far as I have read it there is no reference whatever to the syndicate getting the benefit of those 337 shares—perhaps you did not observe that? A.—I do not know what is in the minutes.

Q.—There is a reference to a form of agreement submitted, and then there is the by-law authorizing the agreement submitted to be executed? A.—And I imagine that the form of agreement would recite the facts in the case.

Q.—That meeting passed a by-law authorizing the execution of the agreement—let us look at the agreement itself just for a moment: "Whereas the Trust Company has expressed the desire to procure the said 237½ shares and 100 shares of stock aforesaid to be re-assigned to the owners"—the owners I see are not anywhere mentioned by name in the prior part of this document? A.—Maybe not.

Q.—The recital prior to that is, "Whereas pursuant to certain memorandum of agreement made between certain owners of options to purchase lands and the Trust Company, and certain shareholders and the Land Company, the Trust Company and the President thereof obtained from the owners the right to 237½ shares and

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100 shares respectively"—unless a man's attention was drawn to the circumstances or unless he was familiar with the history of it himself there is nothing there to indicate to the mind of a person hearing that or reading it that the owners to whom these shares were to be surrendered were officers of the company, is there?

A.—Not unless he had knowledge of it or asked a question with reference to it or informed himself.

Q.—“Whereas the Trust Company has expressed the desire to procure the said 237½ shares”—what have you in mind as expressing that desire?

A.—As expressed I suppose by the resolution passed.

Q.—The resolution of the 13th November? A.—Yes.

Q.—“And to stand in the position of mortgagee for the amount of such payment,” and where the said 237½ shares and 100 shares respectively have been re-assigned to the said owners; and the Land Company is willing to accept surrender of the said other stock and become mortgagor”—in what way was the re-assignment brought about? A.—I do not know, Mr. Wilson was the solicitor in charge of that.

Q.—Take the stock book of the Land Company? A.—As to the stock, you mean?

Q.—Yes? A.—That will show.

Q.—Let me see the assignments that are spoken of in that? A.—That is the assignment of the 237½ shares?

Q.—Yes, and the 100? A.—That seems to be the 100 shares.

Q.—Let us see how that was carried out? A.—It is signed by Or-onhyatekna as the owner of the stock; it is transferred to Matthew Wilson, K. C., in trust.

Q.—The trust being for the syndicate? A.—Yes, and it is signed and sealed in the presence of George E. Foster.

Q.—Then the assignment is an assignment to Matthew Wilson in trust; and it is an assignment witnessed by yourself and an assignment of these 100 shares? A.—Yes.

Q.—And it is made on the 4th December 1905? A.—Yes.

Q.—You were present of course when that was signed? A.—Yes, it would seem so.

Q.—Any discussion then? A.—None.

Q.—The other one? A.—That would be the 237½. This is it number 36, that is signed by the Union Trust

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Company, Limited, George E. Foster, Director. Assigned to Matthew Wilson, K.C., in trust.

Q.—That is a certificate for 237 shares of the capital stock, it does not say 237½, but that is a mere detail, and on the back of it is endorsed an assignment to Wilson in trust of 237 shares and the rubber stamp of the Union Trust Company, Limited, with your name as General Manager and Director? A.—Yes.

Q.—That was the way in which this surrender was carried out? A.—That is the way the transfer was made.

Q.—No discussion I suppose when you met yourself and assigned these 237 shares in trust, you did not discuss that with anybody? A.—No prolonged discussion.

Q.—It is a little interesting to see how this agreement was signed, the agreement which recites the surrender. I see it was signed by McGillivray and Foster for the Union Trust Company, and Wilson and Foster for the Land Company? A.—These were the officers who were empowered to sign in each case.

Q.—Then who advised the transaction had better be submitted to the shareholders of the Union Trust Company? A.—It was the advice of the solicitor.

Q.—Mr. Matthew Wilson? A.—Yes.

Q.—And a special meeting was called for the purpose of having the Union Trust Company confirm the transaction which was reduced by your solicitor in the form of a by-law? A.—I suppose that is right.

Q.—This is the notice calling the meeting: “General meeting of shareholders of the Union Trust will be held at the office of the company on Monday 11th December at the hour of 11 o'clock in the forenoon for the purpose of considering an agreement between the Great West Land Company and the Union Trust Company, dated 28th November,” etc. (Reads notice down to the words “agreement and mortgage”)—who drew or revised that notice? A.—I imagine it is the legal notice prepared by the solicitor.

Q.—Tell me who drew it or revised it? A.—So far as I know it was drawn by the legal adviser of the company.

Q.—What do you conceive to be the office of the notice to shareholders specifying the object of calling a meeting—to give them information? A.—To see that the shareholders have

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the legal notice which is necessary for their information.

Q.—What do you think is necessary when there is special business to be done? A.—It depends entirely on the by-laws.

Q.—What do you think would be necessary in the case of the Union Trust Company? A.—I do not know what the by-laws prescribe.

Q.—Do you believe, or do you understand, that when you call the shareholders together for a special meeting that it is necessary to let them understand what they are called to consider? A.—The purpose of the meeting, the object of the meeting should be set out.

Q.—And should be set out so that the shareholders could have an intelligent appreciation of what they are going to be asked to debate upon? A.—That is the purpose of the notice.

Q.—I invite your own opinion, if you will give it to me, upon the sufficiency of this notice as giving any indication that the officers of the company were getting the bonus stock, what do you think yourself? A.—Let me see the notice. It does not state anything with reference to bonus stock, but it points out that the meeting is for the consideration of the agreement of the 28th November relating to the assignment and surrender of stock in the Great West Land Company, mortgage of the same date, the Great West Land Company, the Union Trust Company, and so on; it would include everything, but it does not specifically mention each.

Q.—Is there anything in this notice in your opinion to advise the shareholder who receives it that he is about to be asked to give away the property of the company for nothing? A.—It does not state that; it simply gives the general purposes of the meeting and the documents which will be considered. For my own part I did not prepare the notice, I left that for the legal adviser of the Company.

Q.—Of course at the time fixed for this special meeting the doctor and Mr. Stevenson were both expected to be away? A.—Yes.

Q.—Then the meeting was assembled together on the 11th December and there were present Sir John Boyd, John A. McGillivray, Matthew Wilson, Colonel Davidson and Hon. George E. Foster—three out of five persons interested—you see that of course? A.—Yes.

Q.—Then the note is that the solicitor of the company explained the

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agreement and mortgage of date November 28th between the Trust Company and the Great West Land Company, and a by-law passed by the Directors authorizing the execution of the same—what do you remember of the speech of the solicitor on that occasion? A.—I do not remember the exact words of his speech, but I recollect he explained the whole matter to the Board.

Q.—You do not remember what he said? A.—No.

Q.—Would you say he said any more than this was being submitted for the purpose of ratifying what the directors had done in the way of changing the holding of the stock into the taking of a mortgage? A.—That was certainly explained and the documents were read.

Q.—Are you able to say anything else was explained? A.—I think the whole matter was explained so far as my impression goes.

Q.—Does your memory warrant—A.—That is the best I can give you.

Q.—You think it was explained but you do not recall as an effort of memory anything but the surrender of stock and the mortgage of the assets—A.—As set forth in the documents which documents were read before the shareholders.

Q.—You say the solicitor read this agreement? A.—I believe he did.

Q.—Do you swear he did? A.—I cannot absolutely swear to it, but that was the purpose for which the meeting was called.

Q.—No, the purpose for which the meeting was called was to have the agreements confirmed; the directors had already confirmed them? A.—Yes, and the shareholders were to confirm these, and naturally enough the shareholders would want to know what these agreements were, and I believe they were read and explained.

Q.—Then a meeting of all the shareholders of the Great West Land Company was also held—do you remember that? A.—Yes. The shareholders of both companies passed upon the action of the directors.

Q.—That had been called by notice of the 29th November, calling the meeting for the 11th December, the same date as the other meeting, at the office of the Union Trust Company, "For the purpose of considering an agreement relating to the assignment and surrender of stock of the Great West Land Company and mortgage of same date by the Great West Land

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Company to the Union Trust Company"—it does not say even who was to assign, who was to surrender, much less who was to acquire the stock—you observe that—I invite your opinion again upon the sufficiency of that notice? A.—There again my only answer is it was a notice that was prepared by the solicitor, which I took as sufficient.

Q.—You had present at that meeting Sir John Boyd—I suppose you just held one meeting right after the other without leaving the room, didn't you? A.—I don't know, they were held on the same day and I imagine as nearly as possible at the same hour. The Union Trust Company's offices were the meeting place of both companies, and are to this day.

Q.—Matthew Wilson, John A. McGillivray, Hon. George E. Foster, Mr. Lefurgey, Mr. Scholfield and Mr. VanDusen, and by proxy the Union Trust Company, Limited—how did the Trust Company, Limited, happen to be there by proxy when they had not any stock left? A.—I think they would have an interest in being present until the whole agreement was confirmed.

Q.—Who had the proxy? A.—I do not remember.

Q.—Do you think it was Mr. McGillivray? A.—I am not sure.

Q.—Do you think it was Sir John Boyd? A.—I don't think he would hold the proxy.

Q.—Do you think it was Mr Scholfield? A.—No.

Q.—Do you think it was Mr. Lefurgey? A.—Certainly not.

Q.—Or Mr. VanDusen? A.—No.

Q.—Then it must have been either Mr. Wilson or Mr. McGillivray or Mr. Foster? A.—Yes, I imagine so.

Q.—Now you have become aware that the Union Trust Company desired to undo that transaction which you have yourself expressed the view was improvident, what is your attitude with regard to that? A.—To undo the transaction in what way?

Q.—To get that bonus stock back to the Union Trust Company? A.—Only with regard to that.

Q.—That is what I am asking you about, are you aware of that? A.—I am aware of that from what I have heard, from Mr. Stevenson's evidence.

Q.—What is your attitude? A.—My attitude is simply this, that that is a matter between the Union Trust Company and the Great West Land Company which they are abundantly able to settle between themselves and which can be settled by a careful con-

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sideration of all the documents and circumstances in question, and I have not the least doubt but what those gentlemen, the gentlemen of the two Boards, can settle that without difficulty to the satisfaction of both.

Q.—What has the Board of the Great West Land Company to do with it? A.—I think it has—

Q.—If I were trying to state the parties interested I should say it was a case between the Union Trust Company and the syndicate? A.—Well, I will say then between the interested parties.

Q.—Do you know of any other interested parties besides the Union Trust and the Syndicate? A.—The Union Trust Company and the syndicate and the Great West Land Company if it has any interest, and to the extent it has that interest, are the interested parties.

Q.—What is your attitude as a member of the Syndicate, towards the position that is being taken by the Union Trust Company? A.—Exactly what I have stated now.

Q.—What? A.—That I think it is a matter between the parties concerned and the parties concerned can settle that question, as I have said, after full consideration of all the circumstances in the case, and I believe they can settle it without troubling this Commission or anybody else.

Q.—Are you willing to give it up? A.—I do not say I am.

Q.—Do you say you are not? A.—I say I am not disposed to give it up until I have reasons shown to me why I should, and I am always amenable to reason.

Q.—Did you hear Dr. Oronhyatekha say under oath that he supposed he was releasing that bonus stock for the benefit of the Trust Company or of the Foresters? A.—I did.

Q.—What is your attitude with regard to a claim by him to have that stock where it would benefit the Foresters through the Trust Company, the same attitude? A.—About the same attitude.

Q.—Of course the same consideration of improvidence applies to the one transaction as to the other, there is no difference between them? A.—I think there is a difference between them.

Q.—Why? A.—I think there is a difference between the two stocks.

Q.—Is there any difference, if what Dr. Oronhyatekha says is true, that he always held that stock in trust for

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the Union Trust Company? A.—The only answer I can make to that is that if it were held for the Union Trust Company, and that title was undoubted then it would be only the interest the Union Trust Company would have, and one would be on exactly the same plane as the other.

Q.—Who signed Dr. Oronhyatekha's name to the actual transfer which you witnessed? A.—It was signed by Mr. Lawless so far as I remember.

Q.—Who is he? A.—He is an officer in the Foresters.

Q.—Had he power of attorney? A.—I think he has, I know he signs.

Q.—Did he execute the transfer at your request? A.—He executed the transfer at the request of Mr. McGillivray.

Q.—The Doctor had not been present at either the meeting of the 11th November or the meeting of the 28th November? A.—No, he was absent.

Q.—And he had not therefore, so far as you were concerned been heard from as to whether he desired this or not? A.—No, Mr. Stevenson in his absence represented the interest of the Foresters. As the understanding of this was carried out by agreement the formal part of it went on.

Q.—Of course it was the Union Trust Company that was holding the stock, and it was the stock of the Union Trust Company according to Dr. Oronhyatekha in his hands—what had the Foresters to do with that? A.—The 237½ shares was the property of the Union Trust Company absolutely, there was no doubt about that, and yet under the understanding to which we came that was transferred.

Q.—I am talking now about the Doctor's share? A.—The same way.

Q.—What had the Foresters to do with that? A.—The two sets of shares of stock were in the position of bonus stock to a certain extent.

Q.—What I am rather anxious about getting from you is this how you assumed to deal with those 100 shares of stock standing in the Doctor's name at a meeting at which he was not present, at another meeting at which he was not present and by a transfer issued of which he had no knowledge? A.—In this way, that the agreement as we understood it was made positively for the transfer of both these blocks of stock, and this was simply carrying out the agreement as it was put in the record, and as it was passed by the meeting.

Q.—An agreement to which the Doctor was no party? A.—The

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Union Trust Company and the Foresters were party to it. The Foresters as being represented in the Union Trust Company.

Q.—Did you think that the Union Trust Company could command the Doctor to relinquish that stock without his consent? A.—That was the agreement that was made.

Q.—No, there was no agreement made he should relinquish it without his consent, there was an agreement made he should relinquish it, an agreement to which he was no party—that is the most you have told us yet? A.—All I can say, Mr. Shepley, is this, that under the agreements which were made we understood that both of those were included, as they actually were, and that the powers that concluded the agreement were the powers which should see that the agreements were executed, and that the stock in question in those agreements should be transferred, and I cannot argue the legal point or anything of that kind, that is what I with the others carried out.

Q.—Who put forward himself as representing that side of the question—Mr. Stevenson? A.—Which side of the question?

Q.—The bonus stock side, the Union Trust, and Dr. Oronhyatekha? A.—The bonus stock side?

Q.—What person present was representing that interest? A.—At the moment it was made Mr. Stevenson was present.

Q.—And was he representing in your view both those interests? A.—He was in my view representing the whole of the bonus stock.

Q.—Then when the time came at which the signature of the Doctor was required why did you not submit the matter to Mr. Stevenson? A.—Mr. Stevenson was on the water or beyond the water.

Q.—Why did you not wait till the Doctor came back? A.—Because these arrangements had to be concluded and carried out.

Q.—Why? A.—Before the end of the year.

Q.—Why, what hurry for carrying out these arrangements? A.—The whole status as it would be under the reversal of the former agreement and putting the advance in the shape of a loan secured by first mortgage was the intention and direction that that should be carried out and finished before the end of the year.

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Q.—Why before the end of the year, what necessity? A.—So that it could be completed as a transaction of that kind and a security of that kind before the end of the year, and so being included in the yearly report.

Q.—What security are you speaking about when you speak of security of that kind? A.—Security of mortgage—

Q.—I am not speaking about a mortgage? A.—Then all of these were parts of one agreement, and if one part were carried out all the parts of the agreement were to be carried out, and were so carried out.

Q.—I know they were in the way you have described to me, what I am asking you is this, was there any necessity for haste, did you want to pledge the stock or anything of that sort? A.—No.

Q.—You just wanted to get them vested in trust to Matthew Wilson?

A.—Wanted to carry out the whole of the agreement as we understood it.

Q.—It would not wait till those who were representing the Forestry side of it came back? A.—I had no doubt about it at all that Mr. Stevenson represented that side of the question.

Q.—But he was away? A.—Yes, but we were carrying out what had been agreed upon while Mr. Stevenson was there.

Q.—And Mr. Stevenson had not a single opportunity in which to see the minutes in which you attribute a resolution to him? A.—That may be, and it was the understanding thoroughly that the whole agreement was to be carried out before the end of the year, and we simply carried out as a shareholders' meeting in each case what we understood to be the agreement which had been carried out. I state again, as I stated before with reference to that, that there is a difference of view between Mr. Stevenson and myself. I have already given credit to Mr. Stevenson for being thoroughly of that impression, and my own impression I have given as well, and I can only be responsible for that.

Q.—At all events you and your associates had the stock, you know that it is claimed that if you got that then you got it without it being fully understood, but you are not willing to reverse the transaction? A.—I have not said that; I think I have stated the opposite to that.

Q.—I asked you and I thought you said so? A.—I am willing to let the transaction be viewed by the parties

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interested in it with all the circumstances, and have no doubt that it will be possible to settle the matter.

Q.—To see whether they can come to some compromise or settlement? A.—I do not say whether it is compromise or what it is, come to some conclusion.

Q.—Then I pass to another subject; you were very certain yesterday, in answer to a question of mine that you were quite confident, and you may have been quite right as a matter of fact and as a matter of recollection, you were quite confident that you did not hear of this proposition with regard to the C.P.R. option with Pope & Fowler until it was brought to you in the way that you have told us? A.—Yes.

Q.—You do feel still quite clear about that? A.—I do, I have no doubt about that at all in my own mind.

Q.—You do remember, perhaps without my referring to it, that you were connected with the Eastern & Western Land Company? A.—Yes.

Q.—I think I mentioned the Ontario & Saskatchewan to you yesterday? A.—Yes.

Q.—And I did not mention the other; you held what office in the Eastern & Western Syndicate? A.—I was one of the directors and Vice-President I think.

Q.—Is that a concern with which Mr. C. D. Scott is identified. A.—Yes, he is the Secretary of it.

Q.—Are those companies, the Ontario & Saskatchewan and the Eastern & Western still extant, or have they coalesced? A.—They are separate entities and still extant.

Q.—Have they directors in common? A.—Some of the directors are directors in both. I think each have some that are not directors in the other.

Q.—Who connected with the Union Trust Company besides yourself is upon either Board? A.—Colonel Davidson, that is all.

Q.—On which Board is he? A.—Both; I am also on both Boards.

Q.—If the two companies have not coalesced has one, rather given up doing business, is most of the business being transacted by the other? A.—No. each conducts its own business absolutely separate.

Q.—And each is actually engaged in business? A.—Yes.

Q.—You recollect a minute passed at the meeting in 1903, on the 3rd June, of the Trust Company, at which

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the matter of taking this transaction up was first broached, you will remember perhaps that there was a second proposition submitted at the same time? A.—I do not remember.

Q. I will direct your attention to that? A.—You will quite see it is impossible to remember all these things.

Q.—“The Manager laid before the directors two propositions for investments in land in the North-West which were approved in principle.” The first I omit, because that is one we have been discussing so long. “In connection with the second proposition the General Manager was authorized to purchase up to 50,000 acres at a price not to exceed \$5.75 per acre of lands satisfactorily reported on by Mr. Whitfield, the Inspector who is examining the option for the Eastern & Western Land Corporation, Limited?” A.—I remember that.

Q.—What is the meaning in there, “who is examining the option for the Eastern & Western Land Corporation?” A.—Have I got to go into all that business?

Q.—Oh no, I am not going to take you into all that business? A.—I will give the answer to the question.

Q.—I am only asking you as a matter of explanation. It says “who is examining the option for the corporation”—does that mean he was an officer of that corporation? A.—The Eastern & Western Land Company was about to purchase lands in the North-West. It had liberty of selecting a certain quantity of land over a certain area. Before making its selections it had them examined thoroughly by a gentleman in the North-West who is a land examiner, the name is given there—

Q.—You are giving yourself a great deal of trouble which I had no intention of putting you to? A.—And he was examining that for this Eastern and Western Company.

Q.—Had he any office in the Trust Company at all? A.—No, he was a Winnipeg man.

Q.—Then I have called for a minute book of the directors of the Eastern & Western Land Corporation, and I find a minute here to which I want to call your attention. This is a meeting held on the 10th June, 1903, and you were present, Colonel Davidson, Mr. Hambly and Mr. Scott—you were in the chair? A.—Which Mr. Scott?

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Q.—It does not say which Mr. Scott, were they both directors? A.—No, there were two Scott brothers and one has died since; that must be the elder.

Q.—This says the directors in attendance were—this must have been the one who was a director. “Upon motion it was resolved that the offer of Mr. Foster as trustee to purchase township 44, range 6, west of the fourth meridian, containing approximately 9,600 acres at \$5.75 per acre, payable one-sixth in cash, balance in five annual payments with interest in the proportion unpaid from time to time of \$5.25 per acre be accepted,” and so on. “The President be authorized to execute the necessary papers.” Is that a matter in which you were making an offer on behalf of the Union Trust Company in pursuance of the authority at the meeting we have spoken of? A.—Yes.

Q.—You were offering at the outside amount that the Trust Company Directors had given you, \$5.75 per acre? A.—Yes.

Q.—I am not dwelling upon this at all, because I want to go into it or trouble you with it, but so as to direct your attention to a matter. Do you recall at all that while the Eastern & Western Land Corporation were engaged in this particular transaction, interested in this particular transaction, negotiating it with the Trust Company, that the proportion of Pope and Fowler was placed before the Eastern & Western Land Corporation? A.—I have not the least recollection of it, and do not believe that it ever was.

Q.—You have not any recollection of it at all? A.—Not at all. Our negotiations, the Eastern & Western and Ontario & Saskatchewan were with entirely different parties and in a different section of the North-West.

Q.—Oh quite; I might have asked you another question perhaps before asking whether that recalled anything to your mind; do you remember any discussion like this, that while you, the Eastern & Western Land Corporation, were engaged in this which was going through with the Union Trust Company you were not in a position or prepared to take up the larger proposition of Pope and Fowler? A.—No, I must give the same answer. So far as my knowledge goes and recollection the Pope and Fowler proposition was never before the Eastern

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& Western. I would be very much surprised to know it was.

Q.—You would give the same answer of course with regard to the Ontario & Saskatchewan Company? A.

—Yes, I would give the same answer.

Q.—I will read you a line from my brief here just to see whether that will at all refresh your recollection—I am not at all saying that this is as likely to be as accurate as you are yourself. “Mr. Foster was the Vice-President of the Eastern & Western Land Company and a Director of the Ontario & Saskatchewan Land Company, and it was at a meeting of the Ontario & Saskatchewan Land Company at which Mr. Foster was in attendance that certain maps and letters were placed before the meeting, and at this meeting Mr. Foster no doubt ascertained who the owners of the lands were.” That information is inaccurate?, A.—It does not vary my answer in the least; there is no doubt in my mind on that. I am as clear as a man can be.

Q.—Do you know who Mr. J. T. Huggard is? A.—No, I know of him; I think he is a Winnipeg lawyer.

Q.—I have this statement in my brief, and it purports to be taken from a letter written to Mr. Fowler on the 11th March, 1903, that would be after Mr. Fowler had secured his option from the C. P. R. and before he passed it on to you? A.—It would be before he passed it on to us, certainly.

Q.—“Mr. Huggard informed the writer that they had been looking out for a proposition of about the size of the one you have and had commissioned Mr. Walker of the Walker-Leary Land Company”—do you know him? A.—No.

Q.—Do you know who he is? A.—No.

Q.—“To call on us for a map and particulars as they did not wish it known that the Eastern & Western Land Company were looking for more land, and we furnished Walker with a map and particulars?” A.—No, nothing of it.

Q.—Could that happen of your knowledge? A.—Yes.

Q.—That is the Eastern & Western Land Company might be engaged in this without your knowing it? A.—I would imagine that this was in the course of the selections and negotiations which led up to the acquisition of lands by the Eastern & Western, I would think so.

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(G. E. Foster, Ex'd.)

Q.—What I am more concerned with is could the Eastern & Western Land Company be negotiating for a purchase of a block of land like this without your knowledge? A.—Not as a company, but the Eastern & Western Land Company was formed to take over certain lands which were to be selected, and all I know about that is and I gave no attention to it until we got the report on the lands and came down to the point as to whether we would take them or not.

Q.—Then the letter proceeds: “Mr. Huggard informed us that they had gone fully into our proposition and that Senator Watson had left on Saturday for Ottawa to see you and Mr. Pope”—who is Senator Watson, is not he a member of the Board of the Company? A.—Senator Watson is a member of one of the Boards.

Q.—Is it the Eastern & Western Board? A.—I think it is, I am not sure.

Q.—I see his name as a director in the Ontario & Saskatchewan; do you know of a visit Senator Watson paid to Ottawa to see Pope and Fowler? A.—No.

Q.—You never heard of that before? A.—No, I think that may be cleared up a little if you have the date of the formation or of the first meeting of the Eastern & Western Company as to the dates.

Q.—That I think I can give you. The first Directors' meeting was held on the 13th December, 1902? A.—And this you are speaking of?

Q.—March 1903? A.—Yes.

Q.—And you became interested with Pope and Fowler in May of that year? A.—Yes.

Q.—Here in another letter: “Since writing you on the 11th we have local parties interviewing us regarding this proposition. Amongst them was Mr. A. W. Pritchard”—Do you know him? A.—I would not know him if I saw him but I know he is a Winnipeg man.

Q.—Have you ever met him? A.—I may have, I cannot tell, I would not know him if I were to see him, but that is not saying I have never met him.

Q.—You do not remember having met him? A.—No.

Q.—“He had been acting for Mr. Scott of Toronto, of the firm of Scott & Scott, Barristers, who I understand is also connected with the Eastern and Western Land Co. We

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quoted to him the land at \$5., and when he informed us who the parties were, we told him we would be very glad to receive and submit any proposition to you. We have since seen Mr. Scott with Mr. Pritchard and hope to be able to submit a proposition to you." Nothing comes back to your recollection still? A.—No, once for all I may say I know nothing about those transactions. I had nothing to do with them. The only thing I know is that at a certain time certain lands were presented to the Eastern and Western and I and the other directors made up our minds as to whether we would buy, and how many, but I had no knowledge of that or any of the preceding negotiations.

Q.—Then in another letter written as late as the 7th April, there is the proposition, which is startlingly like the proposition which you made when the matter was brought to you, or the suggestion you made? A.—Whose writing?

Q.—This is the letter of a person whom Mr. Fowler was then trying to interest in the property. "You understand our proposition is to form a syndicate at \$4.50 per acre, giving you \$1 paid up stock, and our intention is to at once proceed to form a stock company and swing the whole proposition?" A.—I know nothing of that.

Q.—You did not get your idea from there? A.—No, that was a valuable suggestion which I missed.

Q.—There were two astronomers discovered the same planet in the same year? A.—That has taken place in the scientific world.

Q.—Was the Eastern and Western Land Co. a profitable concern? A.—Is there any reason why I should say?

Q.—I will leave that question for the present and you will see why I ask it in a moment, when I have asked you another question or two. You were Vice-President and a Director of the Eastern and Western Land Co.? A.—Yes.

Q.—Col. Davidson was also a Director of the same Company? A.—Yes.

Q.—Was the fact of your interest in that Company known to the other members of the Board of the Union Trust Co.? A.—To all of them, so far as I know.

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(G. E. Foster, Ex'd.)

Q.—Did you ever tell them so? A.—I think it was a matter of common knowledge.

Q.—With regard to the Minute authorizing you to buy at a price not exceeding so much up to 50,000 acres which I read to you a moment ago, there is no suggestion made in that that you should go and deal with your company is there—we are face to face with the dual position? A.—The Minute of the Union Trust Co. authorized me to buy up to 50,000 acres from the Eastern and Western Land Co. I simply carried out those instructions.

Q.—How did they come to know of the Eastern and Western syndicate proposition, from you? A.—Yes.

Q.—You laid before your Board of Directors in the Union Trust Co a scheme in respect of the properties of the Eastern and Western Syndicate? A.—A portion of them.

Q.—And your Board authorized you to go and purchase lands at a limited price? A.—Yes.

Q.—Of course it was your duty to buy the lands as cheaply as you could? A.—Exactly.

Q.—And it was your interest and your duty too, as a Director of the Eastern and Western Land Co., to sell at as dear a price as you could—that is so? A.—That interest was so small—

Q.—The duty was not small? A.—It never counted in my mind in any possible way.

Q.—Did not the duty on both sides? A.—The duty and the knowledge in reference to it was known by the whole Board, the circumstances were fully placed before them, which are these—

Q.—Wait a moment? A.—Very well.

Q.—I do not think you have the Speaker's eye just yet? A.—The Speaker is looking to the Opposition side I am afraid.

Q.—The question I want you to consider, if you will, is whether or not you see the conflict between one duty and the other, and I am leaving interest out? A.—Not the least conflict, I had no sense of any conflict one way or the other.

Q.—Were you to negotiate for either company? A.—I was to buy the lands

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not exceeding \$5.75 per acre, that being the sum at which the lands were held.

Q.—And you were to get them at less if you could? A.—That was not stipulated in the Minute, and I am certain that the understanding was that the land could be bought for \$5.75, and the instruction was really that I should buy them at \$5.75, not more.

Q.—Let us go back a little further. When you approached the Union Trust Company with a proposition of the Eastern and Western you were the accredited agent of the Eastern and Western Company? A.—I was authorized by the Eastern and Western Company to offer lands to the Union Trust Company at \$5.75.

Q.—You abandon all theory of duty to either company and say your duty was simply to carry an offer and bring an answer back? A.—Yes, in the interests of both companies.

Q.—In laying this scheme before the Union Trust Company, I suppose your instructions were to lay it before them so as to make it attractive? A.—I was to lay it before them, to lay it before them exactly as it was.

Q.—So as to make it attractive? A.—Not necessarily to make it attractive, I had no desire to force a sale.

Q.—But your Board in the Eastern and Western Syndicate wanted to sell the land at \$5.75? A.—They were willing to sell them at \$5.75.

Q.—I suppose they would not have sent you to make that offer— A.—They did not send me particularly.

Q.—You told me you took the offer, I suppose you did not go without authority? A.—I took the offer.

Q.—Were you charged in your own view, because fortunately there are rules of law about these things—were you charged in your own view with any duty to the Eastern and Western Syndicate to get the lands sold to the Union Trust? A.—The Eastern and Western Syndicate would sell for \$5.75, that was their price and I was to offer them to the Union Trust Company at \$5.75.

Q.—Were you to try to get the Union Trust Company to take them at \$5.75? A.—I was not particularly put upon my muscle to get them to take them.

Q.—What was your duty? A.—To make the offer and see whether they would accept it.

Q.—And not to do anything to secure its acceptance? A.—Not at all.

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(G. E. Foster, Ex'd.)

Q.—When the matter came before the Union Trust Company, what was your duty to that company? A.—My duty to that company was to lay the proposition exactly as it was, which was a very simple and easy one.

Q.—If I had brought a proposition and laid it before the Board and you had been one of them, what would have been your duty—to criticize and search the proposition, would not it? A.—Exactly.

Q.—Would not it be your duty equally if you brought a proposition for another syndicate or another concern—can you not see that? A.—I see all that is necessary to be seen.

Q.—Can you see that? A.—I see that, I see that in this way, that it was my duty to put the proposition exactly as it was before the Union Trust Company which I did.

Q.—Had you any more interest in the Trust Company, financially, than you had in the Eastern and Western? A.—I do not think I had.

Q.—Had you not more in the Eastern and Western Company than you had in the Trust Company? A.—That is a matter of comparison. The Trust Company had been framed and the stock I held in that, paid for by myself, was more assured in value than the amount of stock I held in the Eastern and Western and I would not have given up my stock in the Union Trust Company for any prospective interest I held in the Eastern and Western at that time, it was a company just formed.

Q.—And you carried the proposition across? A.—Yes.

Q.—And you carried the answer back? A.—I did.

Q.—You are not willing to see you had a duty, or you do not see—I will take that back—you do not see that you had a duty on the one hand to urge the same, and you do not see you had a duty on the other hand to criticize the terms of the proposition? A.—It was not a matter of urgency at all.

Q.—You do not see that? A.—No.

Q.—You carried the answer back to the Eastern and Western? A.—Yes.

Q.—There is something that I do not quite understand in the offer which you made and which was accepted by the other company, the Eastern and Western Company, there is something about interest on \$5.25 of the purchase price, the purchase price being

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\$5.75—what does that mean? A.—Something about what?

Q.—Interest on \$5.25 per acre of the price—I will read the minute (Page 18) “Upon motion it was resolved that the offer of Mr. Foster as trustee to purchase township 44, etc., at \$5.75 per acre, payable one sixth in cash, balance in five equal annual instalments with interest on the proportion unpaid from time to time of \$5.25 per acre, the cost price of the lands at six per cent. per annum be accepted”—I do not understand that, what does that mean? A.—I see what that is. The Eastern and Western Company had gone to all the trouble and expense of making the selection and of the examinations of the lands and the reports upon which they based their selection, and the price that they charged for the lands was \$5.75, or 50 cents in advance of what they paid the vendors to them for the lands, and this 50 cents was the advance price of the Eastern and Western given to them on account of their having gone to all the trouble and expense of reporting upon, examining and having reported upon and selecting the lands and bringing select lands, but the bargain was that they should not receive interest on more than the actual price that they paid for the lands; that is the explanation.

Q.—Then there were some circumstances which entitled the Eastern and Western Company to consideration you say? A.—Yes.

Q.—Those circumstances being that they had been to a great deal of trouble in getting the proposition in a shape to present it, had been at some little expense? A.—At some expense, a good deal.

Q.—And these were considerations making for an advance in price A.—Yes.

Q.—Were those the subject of negotiation between the two Companies? A.—Yes.

Q.—Who did the negotiating? A.—That was the proposition as made by the Eastern and Western Company.

Q.—Who did the negotiating? A.—I know of no negotiations at all.

Q.—You said that was made the subject of negotiation between the two companies? A.—In this way, that the Eastern and Western Co. fixed their price on that basis, and that was accepted by the Union Trust Co.

Q.—You spoke of negotiations, and you certainly said they were entitled

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(G. E. Foster, Ex'd.)

to consideration, or claimed to be entitled to consideration? A.—Yes.

Q.—That sounded to me like negotiating? A.—Not at all; the Eastern and Western Company—

Q.—All right, you say there were no negotiations? A.—No negotiations, simply the offer on that basis and the prices charged were on the basis of those considerations, and the interest was based on the cash price paid, and the 50 cents extra was based on the other consideration I have mentioned, all of which was fully understood by both companies.

Q.—You were good enough to send me last night what you spoke of as the option on the Kamloops deal—this is the Agreement which you spoke of as the option in respect of that? A.—Yes.

Q.—When did the question of your becoming interested in Fowler's interest in the Kamloops Company first come up? A.—Some time after the acquisition of the property.

Q.—What do you mean by some time after? A.—I cannot tell exactly, but I am definite on that point, it was some time after.

Q.—Do you mean some days, or some weeks, or some months, or some years? A.—I should say it was certainly some weeks after.

Q.—Some weeks after? A.—Yes.

Q.—So as to clear the ground for this questioning, you told me yesterday that substantially when the Irwin interest dropped out, Fowler and McCormick remaining in, Fowler's interest was substantially twice as much as McCormick's? A.—Yes.

Q.—You told me, I think, at the time that was arranged you had not any personal interest? A.—That was true.

Q.—Some weeks after? A.—Certainly some weeks, may be some months.

Q.—When you say some weeks, do you mean two weeks or twenty weeks, or three weeks, or fifty weeks—I want your best approximate estimate of what the date was? A.—I cannot give you anything more definite than that it was certainly some weeks, I should think a good many weeks, may be some months afterwards, because—

Q.—Perhaps we can get at it, if you tell me what was the occasion of the matter coming up between you and Fowler? A.—The occasion of the matter coming up as I recollect it was when we were talking with reference

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to the carrying out of the proposition and the prospects of the proposition, the limits and the like of that, and I said to him that that would be a proposition which I should like to invest in if I had money for investment. I had no money free at that time with which to invest. There were several reasons why it would have suited me very well in the future to have had an interest in that, and to have devoted myself to that and the supervision of it and the like, for reasons which were personal to myself, and I made that remark to him, and as I recollect it he expressed willingness to sell a portion of his debentures to me if I wanted them. I may have wanted them, but I had no money at that time with which to invest in them, and so the matter went on.

Q.—That was a verbal option, you would call it? A.—That was really not an option at that time. Later on—

Q.—It was just verbal whatever there was? A.—Yes, and eventuated in nothing except he expressed a willingness to sell me a portion of his stock. I was not able to buy and so the matter went on. Sometime afterwards, I do not know how long, the matter was spoken of again between us.

Q.—How did it come the next time? A.—We were talking, I suppose, about the properties and the like of that, and I expressed the same opinion with reference to that, my idea was they would be very profitable properties, if I had had money at the time I should like to have invested in them, and then he left it that way, the idea being that if at any time I was in a position to buy he would be willing to sell. Eventually, I do not know how long a time, it resulted in an arrangement, simply verbal, that he would be quite willing to hold a portion of his shares for me and if at any time in the future I was able to purchase them he would let me have them at par plus interest and charges net at the time that I might make the purchase.

Q.—That was verbal? A.—Yes, and I dismissed—

Q.—When did you reach that arrangement? A.—That would be probably four or five or six months after.

Q.—That would be in 1904? A.—Yes, I should certainly think so.

Q.—Sometime in the summer? A.—Probably sometime in the summer.

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(G. E. Foster, Ex'd.)

Q.—Or spring? A.—In the summer I should think. Then as I had no investments coming in which would give me the money to buy I paid no more attention to it for a considerable time.

Q.—It did not occur to you to think of your friend Wilson who had arranged to finance you the year before in a much larger proposition? A.—Oh well, that does not—

Q.—And had not had to find the money, because you got it otherwise? A.—That does not come in here, I think.

Q.—I do not know; at all events you did not think of the arrangements which you had had completed the year before and which had not been carried out because you got money elsewhere, that did not occur to you? (No answer.)

Q.—Never mind, treat that as an observation by the way? A.—I must say that I do not think it was necessary to introduce it.

Q.—Perhaps not? A.—I do not think you should taunt a man with his poverty.

Q.—It is not that? A.—It looks like it.

Q.—Oh no? A.—I should be glad if I am mistaken.

Q.—Stood in that way from the summer of 1904? A.—Yes, until I had a prospect of turning some investments into cash, and then I asked Mr. Fowler to put it in the shape of a writing, and that writing resulted.

Q.—That writing is the 21st June, 1905.

Q.—Then it was during that year, I think you told us yesterday, that Mr. Fowler was giving you financial assistance otherwise? A.—1904.

Q.—It was during that same year when this took place? A.—Yes.

Q.—The payments running from the one we saw yesterday which was in February or March, down, to— A.—February.

Q.—Down through to the fall? A.—Yes.

Q.—Or perhaps into the winter? A.—It is my impression that they are all included in 1904.

Q.—Then this is the document, "Whereas I, the undersigned George W. Fowler"—he gives his residence and occupation—and the holder of 650 shares of the capital stock of the

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Kamloops Lumber Co.; and he gives the residence of the company. (Reads.) You see the way he makes his recital. He recites that you are the real owner? A.—Well, I do not know anything about the legal phraseology that is used, but I have told you just what the transaction is. I think the real ownership is pretty well qualified afterwards.

Q.—“And whereas I the undersigned have obligated myself in writing to pay to the Union Trust Company, Limited par value for said 650 shares with interest annually at the rate of 6 per centum.” (Reads). You are entitled to the immediate fruits of the shares? A.—I had no title to the dividends or anything. If there were dividends they went on the payment of the interest on the shares.

Q.—You were entitled to the fruits of the stock by way of wiping out a liability upon that. I call that getting the fruits? A.—Yes, if dividends were paid that would diminish the amount of interest that I would have to pay if I took up the options. That is right.

Q.—“And it is further agreed” (Reads). That is signed in the presence of E. C. Fowler. I will not mark that upon the document itself and I will put in a copy. You would rather keep this no doubt? (Exhibit 547.) A.—It is no good now.

Q.—If it is no good I do not know that I want it? A.—The whole thing is sold out and he owns no shares; neither do I, and my rights are nil.

Q.—Then you told us yesterday, I think, that until quite recently you had not told anybody of this interest that you had in the Kamloops Lumber Company? A.—Yes.

Q.—I mean you had not told anybody in the Trust Company about it? A.—That testimony I adhere to today.

Q.—What you said yesterday you adhere to? A.—Yes.

Q.—Then do you still adhere, or have you refreshed your memory, as to the circumstances as stated by you yesterday under which you made the disclosure? A.—I think they are correct, as I remember my testimony yesterday.

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(G. E. Foster, Ex'd.)

Q.—Do you still think that Mr. Stevenson was not submitting to you the desirability of cutting down Fowler's interest, he having twice as much as the other man? A.—I am very distinct on that. There was no mention of anything of the kind.

Q.—What did you say when Mr. Stevenson—I was going to use the word challenged you, or stated to you, or charged you, or suggested to you that you must have some interest in the Fowler shares? A.—He did not suggest any such thing.

Q.—He never suggested any such thing? A.—Not in any way.

Q.—And you never denied that you had any interest in the Fowler stock? A.—No.

Q.—Never denied that to Mr. Stevenson? A.—No.

Q.—Then the time at which you made the disclosure was here in Toronto after the Foresters' enquiry had commenced, was it not? A.—Yes, I think so.

Q.—And was that in response to—I do not like to use the word challenge—the suggestion by Mr. Stevenson that you had an interest? A.—No, it was not.

Q.—That was volunteered? A.—I can tell you exactly how that arose if you would like to know.

Q.—Did you tell me yesterday? A.—If I did we will let it go at that.

Q.—Tell me now? A.—Mr. Stevenson and I were in conversation with reference to the Kamloops business, and the fact no doubt came before the Commission, and, as I said yesterday, he communicated to me what he had heard in the west as to the prices that were supposed to have been paid for the property and to have gone into the hands of the vendors, not having all gone into the hands of the vendors. I think he asked me what my recollection was in reference to the negotiation, or I asked him. Anyway we compared recollections and at that time I told Mr. Stevenson exactly what I told the Commission yesterday with reference to the prices and negotiations, and my view that these were the actual prices paid, and that, so far as I was concerned I would make a straight statement to the Commission if I were called upon. Then I said to Mr. Stevenson, entirely on my own suggestion, “there is another

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thing that I will also state before the Commission and I will tell you; that is that I had this shadowy interest in Mr. Fowler's stock." I told him that much the same as I have told the Commission here, and that is all there was in the way of suggestions or anything else of the kind between Mr. Stevenson and myself. For a long while I had looked upon that document as quite so much waste paper, because I saw quite how things were going, and that the whole affair would very probably be sold out and go into other hands.

Q.—Even the directors woke up at last? A.—Yes.

Q.—Even the directors woke up at last, though they never seem to have found out how they were being dealt with by those whom they were trusting. However, we went through that yesterday and I will not trouble you with it to-day. You told me you saw Fowler here before he was subpoenaed. You thought it was before he was subpoenaed? A.—Yes, I am certain it was before he was subpoenaed.

Q.—Did you say anything to him about that \$55,000? A.—Nothing.

Q.—It was not mentioned between you? A.—No. I saw him just for a moment.

Q.—No conversation? A.—No conversation at all. He was here on a piece of business entirely apart from this, and he came to see me with reference to that and told me that he was going to British Columbia, and that is all the conversation I had with him and all I know as to his plans.

Q.—You did not mention your discovery to him, or what you had observed in the newspapers, and he did not mention it to you? A.—This evidence had not come out, had it? No, I think not.

Q.—Why do you call that a paper of no value now? Is there not a profit? Is there not enough to pay the stock in full and give you a profit? A.—There is no profit, no. As I understand the transaction that has been made by Mr. Stevenson resulting in the selling of the whole property, there is no profit to Mr. Fowler or Mr. McCormack.

Q.—Is there not a profit for the Kamloops Lumber Company? A.—I am no longer a member of the Kam-

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(G. E. Foster, Ex'd.)

loops Lumber Company and own no stock in it. Mr. Fowler is no longer a member of that company and owns no stock in it.

Q.—What have you and he done with your stock? A.—I did not own the stock at any time, and I endorsed it over to the Kamloops Lumber Company six months ago probably.

Q.—You surrendered your interest? A.—I had no interest.

Q.—What became of Mr. Fowler's interest? What became of his stock? A.—His stock, I think, as I understand the deal with Mr. Stevenson, that Mr. Stevenson told the Commission of, I understand Mr. Fowler's stock we surrendered absolutely.

Q.—Then, that of course would put an end to it? A.—Yes.

Q.—That depends upon what the construction of the document was? A.—Well, there is no doubt about that.

Q.—Don't you understand that the shareholders will get the profits that are coming out of the transaction if there are any? A.—The shareholders as I understand it now are the Union Trust Company. Am I right in that Mr. Stevenson?

MR. STEVENSON: That is my contention.

WITNESS: That is what I understood; so that I am willing to make you a present of this.

MR. SHEPLEY: No I am afraid of presents. Yesterday in reading the cheques from the bank statement, I read the name of a Mr. Parlee, and it is printed in some of the newspapers Pardee, and Mr. Pardee is very much exercised over it.

WITNESS: I noticed that.

MR. SHEPLEY: I am very anxious to get Mr. Fowler and I think we can fill out a very reasonable day to-morrow.

JUDGE MacTAVISH: You have not heard from him?

MR. SHEPLEY: Not since I got the wire.

(The Commission adjourned at 4 p.m. Thursday, October 4th, till October 5th, at 10.30 a.m.)

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EIGHTY-FIRST DAY.

MORNING SESSION.

Toronto, Friday, October 5th, 1906.

INDEPENDENT ORDER OF FORESTERS.—Continued.

MR. SHEPLEY: I am sorry that Mr. Nesbitt is not able to be here this morning, and that will make some little difference in the course of the examination, I shall not attempt to finish with Mr. Foster to-day. In the meantime I will call Mr. Davidson and Mr. Scholfield.

JOHN I. DAVIDSON sworn, Examined by

MR. SHEPLEY: Q.—What was your introduction to the Union Trust Company? A.—I was asked by Mr. Laidlaw to become a director in it.

Q.—It was Mr. Laidlaw who asked you to become a director? A.—Yes.

Q.—That was when the old Provincial Trust Company was being acquired? A.—No, after.

Q.—After it had been acquired? A.—Yes.

Q.—Had the Union Trust Company been organized and was it running when you went on the Board? A.—Yes, they had had two meetings, I think, before I joined.

Q.—Then about your stock— A.—I paid cash for it.

Q.—You paid cash for your stock? A.—Yes.

Q.—How much was it? A.—\$1,000—no, \$1,100. I paid a premium of 10 per cent. on it.

Q.—It was \$1,000 of stock? A.—Yes.

Q.—And that you paid for? A.—Yes.

Q.—The real reason for your taking the stock was that you might be put upon the Board? A.—Yes—no, I was asked to join the Board, and after consideration I said I would do so, and I paid for my own stock to qualify.

Q.—What I mean is this: that it was not intended that you were to have any substantial interest in the Company? A.—Oh no.

Q.—You were to go upon the directorate and purchased stock for that purpose? A.—Yes. \$1,000 was a substantial interest to me.

Q.—It was not a substantial interest to the Trust Company? A.—No.

Q.—Were you regular in your attendance at the directors' meetings? A.—Yes.

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(J. I. Davidson, Ex'd.)

Q.—And did you take an interest in the business policy of the Trust Company from time to time? A.—Yes.

Q. The first matter I want to ask you about is the matter that led up to the Great West Land Company. You, perhaps, can give us your recollection of how that was first presented to you? A.—It was first presented to me through the minutes of the meeting of the Board; that is all I knew of it. In fact I did not know who composed the Company until it was presented then.

Q.—We will look at those minutes and get at that. The directors present on that occasion were the Doctor, Sir John Boyd, Mr. Foster, Mr. Wilson, Mr. McGillivray and yourself? A.—Yes.

Q.—I want your recollection—I do not want your recollection for the moment to be assisted by telling you what is in the minutes—I want you to recollect if you can give it, the best recollection you can give me of the discussion you had heard there? A.—That is a little difficult I think Mr. Shepley.

Q.—No doubt, but I want to see what recollection you have of it? A.—Well, would you lead up? Could you ask me some questions and I would be glad to answer them.

Q.—Who introduced the subject? A.—The Manager in the ordinary course.

Q.—And just state as nearly as you can recollect. Of course we quite understand that one's memory is at fault very frequently but I want your best recollection of what the Manager stated in presenting this case? A.—It is very difficult.

Q.—How did he describe the matter? A.—It is really hardly possible to answer that question I think.

Q.—You think it is hardly possible to answer it? A.—Yes.

Q.—In the first place did you understand it was a scheme which involved spending a considerable sum of money? A.—Yes.

Q.—Do you remember what amount of money was discussed? A.—No. I have an impression it was \$200,000 or \$300,000.

Q.—And what was that expended for? Upon what was that to be expended? A.—I understood it was to be in the security of lands of the Great West Land Company.

Q.—You understood it was to be upon the security of lands in the Great

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West Land Company? A.—Yes, the company to buy the stock.

Q.—What did you hear about the company? What did you understand?

A.—The composition, who the Directors were, that is all.

Q.—Do you remember? A.—I remember three or four of them.

Q.—Tell me who they were? A.—Mr. Scholfield, Mr. Foster, Sir John Boyd and Col. McGillivray.

Q.—You do not remember Mr. Wilson? A.—Oh yes.

Q.—What were you told of the relation between these gentlemen and the Great West Land Company? A.—That they were the Great West Land Company, that they had taken over an option from some gentlemen that he named, Pope and Fowler were the two mentioned as far as I remember, and that they wanted an advance to carry it through. The advance was approved by the Foresters, and that being the case of course it was approved of by the Board.

Q.—Did you hear anything about the history of the transfers of the land? A.—None.

Q.—Between the time it left its original owners and the time it got into the hands of the company? A.—No.

Q.—You were not told anything about that? A.—No.

Q.—You are quite clear about that? A.—Yes.

Q.—Then I take it that you were not made aware on that occasion that the land had originally been the property of the Canadian Pacific? A.—I do not know. Of course I have an impression all the land there belonged to the C.P.R. anyway.

Q.—That is a very natural impression to have? A.—Whether I was told so or not I don't know.

Q.—You may have had an idea that it was Canadian Pacific subsidy land? A.—The chances are I did.

Q.—Then did you hear that Pope and Fowler had got an option from the Canadian Pacific and had transferred it to Foster, McGillivray and Wilson at a profit of a dollar? A.—No.

Q.—Did you hear that Foster, McGillivray and Wilson were personally interested to the extent of 50 cents an acre profit? A.—No.

Q.—I want to see whether I have it quite correctly with respect to your attitude. You do not say you do not remember, but you say you did not hear? A.—No, I did not hear.

Q.—Now then we come to the minute: "The Manager laid before the Directors two propositions for invest-

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ment in lands in the North-West which were approved in principle, the first in reference to the New Ontario Farm and Town Site Syndicate Land Company." You remember that long name? A.—No, I do not. I remember the Great West Company.

Q.—It was turned into the Great West Land Company. That is the same company however. It is just the matter we are speaking about? A.—Yes.

Q.—"To loan to the New Ontario Farm and Town Site Syndicate Land Company, Limited, capitalized at \$1,000,000, on the security of the land and bonds, a sum of money not to exceed \$140,000, at a rate not to exceed 6 per cent. per annum; the Union Trust Company is to have the option of taking fully paid up stock at par for the whole or any part of its advances and interest." (Reads down to the words "Paid up stock of the company.") Do you remember that? A.—Yes.

Q.—That stock was to be given to them as a bonus for financing the transaction? A.—Yes.

Q.—You had not any share in the Great West Land Company? A.—No.

Q.—You perhaps were not very familiar with its affairs at that time? A.—No.

Q.—Did you become aware subsequently and in the course of your administration of the affairs of the Union Trust Company of the state of facts that I have outlined to you a moment ago about these intermediate profits? A.—No.

Q.—When did you first hear of those? A.—Not until the investigation.

Q.—Are you clear in regard to that? A.—Quite. I thought their profits were to be out of the realized profits after the sales.

Q.—You have told me you did not pay any attention to the affairs of the Great West Land Company? A.—No.

Q.—Do you remember an occasion upon which arose some discussion with reference to this option? Do you remember the option either to take the stock or to treat the money as advances? A.—Yes.

Q.—Were you at a meeting of the Board at which that was discussed? A.—Yes.

Q.—Do you remember the discussion that took place? A.—As to whether we should take the stock or take debentures?

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Q.—Yes? A.—Yes.

Q.—Who took part in the discussion? A.—I think Mr. Stevenson, Col. McGillivray, and I do not know who else.

Q.—Now tell me as nearly as you can recollect,—and again tell me all you can without reference to the minutes—tell me what you remember taking place? A.—At this meeting?

Q.—Yes at this meeting? A.—The question arose, I think we were asked to decide whether we were going to take the stock.

Q.—You were asked to decide whether you were going to take the stock? A.—Yes. I do not know whether it was Mr. Stevenson or the other side, but it came to a point where we were asked to decide whether we would take the stock—

Q.—What do you mean by the other side? A.—What you call the Great West Land Company—that we had to declare our position.

Q.—How did you view Mr. Stevenson in his attitude towards the Union Trust Company? A.—How do you mean?

Q.—He has been spoken of as being a man who peculiarly represented the Forester's interests? A.—Well then he thoroughly represented the Union Trust Company.

Q.—The two interests you speak of are the interests of the Great West Land Company on the one side and the interest of the Union Trust Company upon the other? A.—Yes.

Q.—Go on with your account of what you remember to have heard on that occasion? A.—I think I moved a resolution on that occasion concerning what policy we should adopt, would you kindly read the resolution.

Q.—First give me your recollection of what was said, the course the discussion took? A.—The discussion took this course, that in all likelihood this venture was to realize a large profit.

Q.—Who made that statement? A.—I think it was general, because the land business was apparently in a very good shape. I do not think there was ever any doubt but what it would realize a large profit, and the question was whether the Union Trust Company should become stockholders or simply lenders.

Q.—You mean stockholders for the advances? A.—Yes.

Q.—They were already bonus stockholders? A.—Yes. They had an option of taking stock for their advances or of becoming debenture-holders or

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lenders, and I think on that occasion we decided to become stockholders, which policy we altered.

Q.—Your recollection is that you decided to become stockholders in respect of your advances at that time? A.—Yes, I think so.

Q.—Then that would entitle you to have stock of the Great West Land Company to the amount of your advances in addition to the bonus stock which you were entitled to under the old arrangement? A.—Yes.

Q.—You did not understand, did you, Col. Davidson, that the right to the bonus stock depended upon which way the company elected? A.—No, not at all.

Q.—That was an absolute right as you understand? A.—On either horn of the dilemma.

Q.—Accepting either proposition, either treating the money as advances or taking it as stock, the right to the bonus was absolute? A.—Yes.

Q.—Before coming to the terms of the resolution, let me ask you what you knew with regard to certain stock that the Doctor held in the Great West Land Company? A.—Nothing. I did not know about any of the stock.

Q.—You did not know he was the holder of a hundred shares? A.—No.

Q.—You heard no discussion about that? A.—I did not know the division of the stock of the Land Company at all.

Q.—You were only interested in the Union Trust Company? A.—Yes.

Q.—And the Trust Company at this time had got its 237½ shares? A.—They were entitled to get it; I do not know whether it had been advanced or not.

Q.—You assumed it would be all right? A.—Yes.

Q.—I see your recollection is quite right. You moved a resolution, seconded by Colonel McGillivray, that under and pursuant to the mortgage agreement made between the Union Trust Company and the syndicate company, the Great West Land Company, Limited, dated the 22nd June, 1903, the Union Trust Company exercised its option to take stock for all advances to be made under the said agreement, and does hereby take stock to the amount heretofore advanced, and authorizes the General Manager to subscribe therefor in the name of the company. That is your recollection of the decision of the

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meeting, and that was on the 26th March, 1904? A.—Yes.

Q.—What is the next that you remember with regard to the Great West Land Company and the Union Trust? A.—I think the next was embodied in a resolution, of course leading up to it, in which we reversed that resolution. I may say that resolution was handed to me by Colonel McGillivray and so I was asked to become the mover of it, which I did, as being the policy of the Foresters.

Q.—That was handed to you by Colonel McGillivray, who had prepared it, I suppose? A.—I do not know about that.

Q.—You did not write it? A.—No.

Q.—The composition is not yours? A.—No.

Q.—And you understood it was being put forward by him for your— A.—Approval.

Q.—For your fraternity, as being the policy the Foresters desired to pursue? A.—Yes.

Q.—Not knowing of Colonel McGillivray's personal interest at that time, of course you did not attribute it to that? A.—No. I may have known of his personal interest, but I attributed it to the policy of the Foresters, as I think it was at the time.

Q.—What were the events that led up, as you recollect them, now, to what you speak of as the reversal of this policy? A.—I think that we had several discussions in the matter, and Mr. Stevenson thought the better policy would be for us to become lenders of the required amount of money, taking security on the lands and stock, and Mr. Stevenson also suggested that the members of the Land Company should become personally responsible.

Q.—Was that a piece of policy that Mr. Stevenson was advocating outside of the Board meeting? A.—I think he asserted it at the Board meeting.

Q.—I wanted to know whether it was a matter of frequent and common discussion in and out of the Board? A.—I do not think so.

Q.—Do you think it never was discussed except at a Board meeting? A.—I cannot say that.

Q.—With you? A.—Not with me, I think not.

Q.—Not by anybody? A.—Not by anybody.

Q.—Then you only became aware of the matter by virtue of what passed

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at the Board meeting? A.—That is all.

Q.—Now there is a minute here of the 7th November, 1903, at which Mr. Stevenson, Mr. McGillivray, yourself, the Hon. Mr. Ross, Mr. Wilson and Mr. Foster were present, in which this occurs: "Some discussion was had with reference to the Great West Land Company and the position of the Union Trust Company in relation thereto. This matter was, however, left over to be taken up at the adjourned meeting. The date of this is the 7th November, 1905. Does that accord with your recollection of the date? A.—I cannot say.

Q.—That would be last November? A.—If the directors' meeting book is there that will tell us.

Q.—I have a copy of it before me? A.—I have no doubt it is all right.

Q.—That appears to be the discussion, which was not completed, but stood over? A.—Quite apparent.

Q.—You remember that? A.—Only by being refreshed.

Q.—Do you recollect the discussion which took place before the matter was postponed? A.—I have no doubt it was on the lines which I have been stating to you as to whether that policy should not be reversed, and we should become, as I say, lenders instead of stockholders.

Q.—Re-exercising, so to speak, the right of option? A.—Exactly.

Q.—What do you remember to have heard during that discussion with regard to the bonus stock? A.—My recollection is the bonus stock was never discussed.

Q.—Your recollection is the bonus stock was never discussed? A.—I may be entirely wrong.

Q.—You have no recollection of its being discussed? A.—No.

Q.—Don't you think you would recall it if such an important thing as that were discussed? A.—I would think so, but the idea of its not belonging to the Trust Company has never entered my head.

Q.—The idea that it did not belong to the Trust Company never entered your head? A.—No.

Q.—Then do you remember this little book? A.—Yes.

Q.—Is that what you mean by the directors' meeting book? A.—Yes.

Q.—What was the custom with regard to your signing your names in this book? A.—The directors present signed every minute.

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Q.—Have you any doubt about that at all? A.—No, none.

Q.—And if you do not find your name here do not expect to find a minute in the minute book? A.—No.

Q.—Are you clear about that? A.—Quite.

Q.—You are quite clear about that? A.—Yes.

Q.—Then I show you the book first, and I think that is your own admirable signature at the top? A.—Yes, I thought you could not read it.

Q.—I have seen it a good many times recently. November 7th, 1905, 10.30 a.m. and the first signature is John I. Davidson, and the next meeting in the book appears to be December 26th, 1905? A.—Yes.

Q.—And I see your signature there as well? A.—Yes.

Q.—Was there any meeting between those two dates, of directors? A.—I should say not.

Q.—There is a record in the regular minute of the Union Trust Company, what is said to have been a meeting of the Board of Directors, at which the same directors were present as at the meeting of the 7th, yourself among other things, it was resolved that the Union Trust Company, when taking the mortgage for its advances, should give up its bonus stock. I tell you that appears upon the minutes? A.—Who moved the resolution?

Q.—It is attributed to Mr. Stevenson? Do you remember any such meeting, or any such resolution? A.—Giving up the bonus stock.

Q.—Yes? A.—No, I do not. Who seconded that resolution?

Q.—It is said to have been on the 13th November, although there is no signature to correspond with it in the directors' meeting book? A.—Who seconded it?

Q.—It is said to have been seconded by Mr. McGillivray? A.—I have no recollection of it.

Q.—You have no recollection of any such meeting? A.—If the name is not in that book I cannot understand how a meeting could have been held.

Q.—You cannot understand how a meeting could have been held, if the name is not in that book? A.—No, I do not see how there would be a minute unless—

Q.—This is what is entered in the record as the minutes of the directors' meeting, "After a full discussion in reference to the Great West Land Company, it was decided on motion by the Hon. E. G. Stevenson, seconded by Lt. J. A. McGillivray, that the

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Union Trust Company should assume the position of mortgages with reference to its advances." That would be on a line with what you understood? A.—Yes.

Q.—"And payments to or for the Great West Land Company, instead of the stock received by the company and its President upon formation of the Land Company, and the stock received as representing payments as advances and the company and its President releasing to its original owners respectively the stock which had been acquired under the former arrangement as set forth in the agreement of the 22nd June, 1903." That is the bonus stock. Did you ever hear such a resolution moved or vote for such a resolution? A.—I have no recollection of it.

Q.—Would you not recollect it? A.—I think I would.

Q.—You would be quite alive to the impropriety of giving up that bonus stock? A.—I think I would.

Q.—What do you think? Having regard to all these circumstances, can you say with certainty, having regard to the fact that you do not find your signature in the attendance book, and having regard to the fact that that subject was never brought to your attention, have you any doubt there never was any such meeting? A.—I do not think there would be any minutes in the book, unless there was a meeting; but the minutes would be signed of course.

Q.—No, the minutes are not signed. That is all you can tell me about it? A.—The minutes have always been signed, and the attendance always has been entered in the book as far as my recollection goes.

MR. SHEPLEY: Q.—Then the solicitor was instructed to prepare the necessary papers to be duly executed by the officers of both companies. It was pointed out to me by Mr. Foster that blank spaces were left, and it is also pointed out that the entries of the directors' names in respect of other meetings are consecutive, and it is also pointed out that, according to the evidence before the Board, there was hurry at the meeting of the 13th November, as people were going to leave.

JUDGE MAC TAVISH: Quite true.

Q.—MR. FOSTER: And that there seemed to have been space left there for filling in.

MR. SHEPLEY: I stated that.

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MR. FOSTER: If Mr. Davidson will look at that he will see it.

WITNESS: We always signed the book, you remember, Mr. Foster; that was one of the first things done. I think it was the unalterable rule, but, of course, if the minutes are in the book I am quite satisfied—

Q.—Then on the 28th November—there is no signature for such a meeting as that? A.—My statement carries.

Q.—You say the same thing in regard to that? A.—Yes.

Q.—There is record of another meeting on the 28th November at which you are said to have been present, and the solicitor of the company read the agreement and mortgage between the Trust Company and the Great West Land Company. Were you present at any meeting at which the agreement showing that the bonus stock was surrendered was read and explained? A.—I think not.

Q.—At all events you never heard of such a thing as that being done? A.—It never entered my head, such a thing taking place, because I take the stand that our agreement was that the bonus stock was given on whichever option we agreed to adopt and why we should have abandoned it for nothing is what I cannot see that any business man would think of doing.

Q.—That is the way it strikes you? A.—Yes.

MR. KENT: Do I understand that you would have opposed any proposition to return this bonus stock? A.—Except upon consideration, sir.

MR. SHEPLEY: Q.—I think that is all I want to ask you about that particular matter. Then you have a recollection of the formation of the Kamloops Lumber Company? A.—Yes.

Q.—Tell me, first, what led up to that? A.—That is rather a contract too.

Q.—All that you recollect? You see you are a business man and a director? A.—Certainly, my duty is quite plain, I will tell you all I know. I would like to read it over.

Q.—But I must ask you for your recollection first? A.—The first proposition, Mr. Foster handed me a statement of some lumber business in New Brunswick, asking me to read it over. I read it over and some days after I had read it over he asked me what I thought of it, and I said I had had some experience of the lumber business, and it made me very chary of the lumber business.

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Q.—You would not have anything to do with it? A.—I did not say that. It made me chary of it, and he said Irwin and McCormack were interested in it, men whom I knew very well, and who were first-class lumbermen.

Q.—Whereabouts was the location of this? A.—New Brunswick, or down in the Lower Provinces somewhere, and he said, just to leave it till we got their report, and I said, all right.

Q.—He told you Irwin and McCormack were off exploring? A.—Yes, and their report came back, unsatisfactory, and that closed that, and I forget who said that Irwin and McCormack had an option on timber limits in British Columbia.

Q.—Who told you that? A.—I think it must have been Mr. Foster.

Q.—That Irwin and McCormack had an option upon limits, was it, or a mill— A.—Mill and limits in British Columbia.

Q.—Did you hear any other name mentioned except— A.—Fowler.

Q.—Fowler, Irwin and McCormack were the three you heard mentioned? A.—Yes, and that it would likely be a good venture. I am sorry to say that rather appeals to me, because I think British Columbia lumber is a first-class proposition, and I always thought so, and Irwin and McCormack were going into it, and I said, if I had money of my own I would not hesitate to put it in.

Q.—Do you know Irwin and McCormack? A.—Yes, knew them for years.

Q.—They were men of experience? A.—Yes. I believed then that if they would take an active financial interest it would be a financial success, and I said if I had money of my own and could afford to lose it, I would put it in British Columbia in the lumber business. It is a good gamble, that is all.

Q.—I want to get your appreciation of the personal element introduced by Irwin and McCormack? A.—As lumbermen I had perfect confidence in both of them.

Q.—And as honest men? A.—Yes.

Q.—And as to their financial standing? A.—I knew Irwin was worth a considerable amount of money.

Q.—You knew he was a substantial man? A.—Yes.

Q.—As the proposition was submitted to you did you understand they were putting their own money in? A.—Yes, or what was the same thing.

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that they were going to become jointly responsible for each other, and we would advance the money.

Q.—That you think you heard? A.—And that I looked upon as a better proposition for the Trust Company than the other, because I am satisfied that Irwin, at least, could have been financially responsible for any undertaking he would have undertaken, and I would have been quite satisfied to have advanced him the money on a 6 per cent. basis.

Q.—At that stage was it mooted or broached that the Trust Company itself should be jointly interested in the division with Irwin, McCormack and Fowler? A.—I think so.

Q.—You so understood it then? A.—Yes.

Q.—We have been told, and no doubt it is absolutely correct, that the Trust Company was to retain control of a company which was to be formed having 51 per cent. of the stock, while the other three had 49? A.—Yes, that is my recollection.

Q.—Do you recollect whether or not Irwin and McCormack were entrusted with the duty of inspecting the property? A.—Yes.

Q.—Mr. Foster tells us they were inspected and reported? A.—Yes.

Q.—Do you remember when Mr. Fowler was entrusted with negotiating with the owners to come to an agreement for the purchase of the property? A.—I cannot remember Mr. Fowler's name being mentioned pronouncedly, but he was in the transaction I know.

Q.—Then do you remember what the property was to cost? A.—I have an impression about \$175,000 or something.

Q.—What the Union Trust Company paid was \$225,000 plus a measurement of the logs? A.—Yes, that is it.

Q.—Well of course you are not aware that the real price that Fowler paid was only \$170,000? A.—No.

Q.—You never knew of that until you heard it recently? A.—That is all.

Q.—What steps were taken with regard to closing up the property? A.—Several meetings. In the meantime I had a man, Mr. Hamilton, who used to work for us in the lumber business, and in whom I had a great deal of confidence, and I said I thought it would be well to send an independent man to go over these properties in sections. We sent Mr. Hamilton up at my request, and he

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sent in his report which was very favorable.

Q.—That was before the transaction was closed? A.—Yes, and they had also gone over an adjoining property, or rather another property which he thought better than the one he had gone into. Then when they came back Mr. Irwin said he wanted us to take up the other property also on the same basis.

Q.—What property was that? The Okanagan? A.—Yes, the Okanagan property.

Q.—Are you clear Hamilton did any inspecting with respect to anything but Okanagan? A.—I think he went over both.

Q.—That is what you understood? A.—Yes, I am quite sure. I asked him to anyway. I am sure he did it when I asked him.

Q.—You say Irwin wanted to take up the— A.—He said if we did not take up this other proposition as well that he would like to retire and take this up himself.

Q.—Was that all before the first transaction was closed? A.—Yes.

Q.—You are clear about that? A.—Quite clear about that. Then after discussion we thought it was advisable to take up two properties. If one was good the other was better, the understanding all the time being that these three gentlemen, Fowler, McCormack and Irwin, were to become jointly responsible for that 49 per cent. of the stock—jointly and severally responsible.

Q.—Was it not also part of the understanding that they should not make any secret profits in turning over the property? A.—Yes, such a thing as secret profits I think was foreign to all interests that I know of.

Q.—You supposed you were getting a fair deal from Irwin, McCormack and Fowler? A.—Yes.

Q.—Do you remember what you paid for the Okanagan property? We have hitherto treated them separately? A.—I do not remember. It might be \$140,000.

Q.—It was more than that. It was \$177,000 plus \$42,000 for logs? A.—Well the logs were a liquid asset.

Q.—\$42,000 worth of logs at \$6 a thousand means 7 millions feet of logs? A.—Well that was a liquid asset, subject to measurement.

Q.—It is a liquid asset if it is there? A.—Yes, if it is not there we would not pay for it.

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Q.—Were you shown the balance sheet of the Okanagan Lumber Company? A.—No.

Q.—You did not know that all the money spent there including operating expenses only amounted to \$60,000 odd? A.—No.

Q.—If you will come to the matter that I was speaking about when you very properly reminded me of this further matter; that is the steps that were taken to wind up the business? A.—Which business?

Q.—The Kamloops business. You were a director on the Kamloops Board, were you not? A.—Only as a trustee.

Q.—For whom? A.—For the Union Trust Company.

Q.—That was your capacity? A.—That was all.

Q.—You did not put up any money in that? A.—No.

Q.—Then do you remember Mr. Stevenson in the Union Trust Company advocating the policy of closing up those interests? A.—Yes.

Q.—That was very recently? A.—Yes.

Q.—Do you remember what was done? A.—He was authorized to try and effect a sale, and I tried to effect a sale myself.

Q.—I ask you another question; were you aware—did you ever become aware—that Mr. Foster had an interest with Fowler in his ownership of stock in that company? A.—No.

Q.—You never became aware of that? A.—No.

Q.—Then one other matter I should have asked you in connection with the land company, were you of the impression in the Union Trust Company, you for your own directorship in the Union Trust Company, that Pope and Fowler were turning over all the land they had selected? A.—Yes.

Q.—You were of that impression? A.—Yes.

Q.—You did not know that they were retaining 7,000 acres or thereabouts for themselves? A.—No, that was the Land Company's business.

Q.—That was the Union Trust Company's business too, because it was putting up the money? A.—Yes.

Q.—At all events you were not aware of that? A.—No.

Q.—Mr. Hellmuth points out to me that there was a meeting September 20th, 1906, at which your initials are put by somebody else in pencil. Let us see what was done at that meet-

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ing and see if you were present at it?

JUDGE MAC TAVISH: That was only last month?

MR. SHEPLEY: Yes. That is all I have to ask you, but if you will wait a few minutes, when that minute book comes we will see whether you remember being present at the meeting where your initials are in pencil, because that would modify your recollection that you invariably signed. So we will just wait for that.

GEORGE P. SCHOLFIELD sworn.
Examined by

MR. SHEPLEY: Q.—You are of the profession of banking? A.—Yes.

Q.—And are now the General Manager of the Standard Bank? A.—Yes.

Q.—You are a director and have been for a long time of the Great West Land Company? A.—Yes.

Q.—How was that proposition first introduced to you? A.—I was living in Chatham then, and Mr. Wilson came to see me about it, and told me that some gentlemen associated with himself—I do not know that I would have remembered the names if my memory had not been refreshed afterwards—Col. McGillivray, Mr. Foster and himself had secured an agreement by which they were to get some lands from Pope and Fowler, who had obtained them from the C. P. R., and he discussed it, and told me a great deal about it, and said, "Will you agree to join the Board? We are going to form a company."

Q.—The invitation to you was to join the Board? A.—Yes, and I asked him what would the necessary qualification be, how much stock would I be required to take, and he said, "We have not thought about it; I should think a couple of thousand dollars." And I said, "You know a good deal about the lands," and he said, "Yes, we have pretty full reports, we are advised it is very profitable;" and he said, "You will get a thousand dollars bonus by reason of going on the Board—a thousand dollars stock rather," and I said, "I have no objection to put \$2,000 in."

Q.—Receiving the bonus stock? A.—Yes.

Q.—How much stock did you subscribe for? A.—I subscribed for \$4,000.

Q.—How did that come about? A.—At a meeting Mr. Foster said he had had a great deal of experience.

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Q.—Where was this meeting? A.—In the Board room of the Union Trust Company, I suppose you call it. I will tell you just as well as I can remember. Mr. Foster said he had a good deal of experience in selling lands. He had some lands himself, and it was desirable if they were going to sell stock that they should only pay up 50 per cent. on the stock, that it was more attractive to investors, they getting a larger quantity of stock for the same money. I was not particularly enamoured with that idea, because it meant a liability, and I had only consented to take \$2,000, and I expected to pay the \$2,000. However I was practically the only one in the meeting who viewed it that way. Of course their stock was all paid up, or would be, as I understood the transaction. However, I was satisfied, and thought there would not be any great liability to subscribe for the \$4,000 stock, but on the understanding I was only going to pay up \$2,000.

Q.—And you understood that was a perfectly futile understanding if calls were made? A.—Yes.

Q.—What about this issue of stock at 50 per cent.? A.—I did not see anything in it myself. Three calls were made, I think \$800 and \$600 and \$600.

Q.—It now turns out that you and Sir John Boyd are the only real shareholders who paid their money in the transaction? A.—I will try and explain that; the Union Trust Company when they had arranged to advance the money, had the option of either becoming stockholders, or becoming mortgagees; some little time drifted on, and they had not given any election, and I said to Mr. Wilson that I did not think it was particularly fair, that I thought they should elect one way or the other. It would be hardly fair to the other stockholders that they should wait to see whether the transaction turned out profitable before they decided whether they would be mortgagees or stockholders. He said he thought so too, and I believe he brought it up with the Union Trust Company, with the result that they became stockholders.

Q.—You were not on the Union Trust Company Board? A.—No, I do not know anything about them at all. Of course I was glad they had decided as they did, because it relieved me from any liability on my stock.

Q.—Why? A.—Because there was already 50 per cent. unpaid on my

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stock. If they had been mortgagees they could not only have called on me for that, but could have wiped out my investment. So I felt I was safe. I felt that the profit in all probability would be much smaller to me, but at the same time I approved the other side of it, and was very glad that they decided to become stockholders.

Q.—The speculative element was still there, but the risk was practically eliminated by the coming in of the Union Trust Company? A.—Precisely.

Q.—Did you know about the Union Trust Company being entitled to certain bonus stock? A.—I understood, I think it was done by Mr. Wilson, that there was an agreement with the Union Trust Company by which they were to get a consideration. I do not know that I would have remembered the exact number of shares, but of course my memory has been refreshed by reading the newspapers.

Q.—And was your understanding of it that the bonus stock was the absolute property of the Union Trust Company whichever way it elected? A.—I suppose it was their property, yes.

Q.—Then had you anything to do with the carrying out, the working out of the quantity of land, or dealing with the property in that way? A.—Nothing whatever sir.

Q.—Who was charged with that? A.—I think Mr. Wilson and Mr. Foster had chiefly to do with that.

Q.—I see at your first meeting you made the three of them an Executive Committee? A.—Yes.

Q.—And after that there were very few Directors' meetings? A.—I was out of town a great deal, and I fancy I was only at shareholders' meetings. I may have been at Directors' meetings.

Q.—At all events you took no part in the administration of affairs? A.—None whatever.

Q.—Did you suppose as the proposition was submitted to you that you were getting all the land that Pope and Fowler had selected? A.—I do not know anything about that.

Q.—Did not make any inquiries about it and knew nothing about it? A. No; in fact I never knew Pope and Fowler and knew nothing about it.

Q.—You were probably aware, because you seem to have been present at the meeting of shareholders at which it was reported that 8,640 acres were subsequently bought from Pope

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Ind. Order of Foresters.
(G. P. Scholfield, Ex'd.)

and Fowler at \$5 per acre? A.—Yes.

Q.—Do you remember that statement? A.—I remember this part of it; that we were short on some sales, and I think I inquired why it was we had not got the 200,000 acres. I am not positive of it, and am speaking according to my memory now, but it was explained that where there was five acres of water on the land, that that was not counted; so that really while we might have had 200,000 acres, that there was 7,000 of that which would be under water, and areas not larger than 5 acres.

Q.—Do you remember that explanation being made? A.—Yes.

Q.—Who made it? A.—It would be either Mr. Foster or Mr. Wilson, I am not sure. I am pretty sure it would be one of these. I do not know anything about the story. I did not know whether it was correct, and do not yet.

Q.—That fixes it in your memory? A.—Yes.

Q.—Did you hear that the 7,000 acres that was short, was short because Pope and Fowler were holding it back, keeping it themselves? A.—I did not.

Q.—Had you any knowledge of that? A.—No knowledge of that whatever.

Q.—Would that have been an element to be considered if you had known of it? Would it have made a difference in the way you would have looked at the matter, if instead of getting the 200,000 acres which you expected, you had heard 7,000 acres were being kept back? A.—I was only concerned in this way that if we got an acre of land we paid for it, and if we did not get it we did not pay for it, but if the purchase of 200,000 acres was a good investment, if it was less it would be an equally good investment.

Q.—You did not understand you were financing the whole 200,000 acre proposition with Pope and Fowler keeping back 7,000 acres of it? A.—No, I did not know anything about the 7,000 acres, and never heard it mentioned that I remember.

Q.—You were not aware that you were financing through the Union Trust Company the whole 200,000 acre proposition, only getting 193,000 acres? A.—I am not positive that I perfectly understand you.

Q.—The C.P.R. had to get its price on the whole 200,000 acres? A.—Yes.

Q.—I will put it hypothetically. If Pope and Fowler kept back 7,000 acres, and you got 193,000 acres, Pope and Fowler should pay for the 7,000 acres and you ought not to? A.—That is correct.

Q.—You never supposed your company was financing the whole 200,000 acres, paying the C.P.R. for the whole? A.—No.

Q.—Coming back to the 8,640 acres, we got a little away from that, because we dilated upon your explanation. What were you about to say in regard to that? A.—Well, perhaps if you would ask me a question it would be better.

Q.—When you found that there was less than 200,000 acres you said “Why don’t we get the whole 200,000 acres?” A.—Well, I may not have been the one to ask the question, but I remember it quite well.

Q.—Who else was there to ask it besides you? A.—I do not know who was at the meeting. I do not know whether Sir John Boyd was there or not. I am inclined to think I asked it.

Q.—What was the reply? A.—That was the explanation, that we had got this 193,000 acres, that there was 7,000 acres that was not counted in on account of those ponds.

Q.—About the other— A.—The 8,640 acres—well, I think that was some little time later we required that.

Q.—I thought you were speaking of a particular meeting at which this discussion took place. I will refresh your memory with the minutes if I can. The first annual meeting was held on the 23rd February, 1904, when this report was read by the Directors. I suppose you were a party to making that report theoretically at all events? A.—I just heard it when it was read in the meeting no doubt.

Q.—On July 10th the report says—just taking the pith of it—it took over certain lands known as the Pope and Fowler lands numbering 193,000 acres odd. On July 9th the company purchased from Messrs. Pope and Fowler 8,640 acres adjoining those already bought at the price of \$5 per acre. That is what is said in the minutes. Do you rememebr any discussion at the meeting in regard to that? A.—No sir.

Q.—You do not remember? A.—No sir, I do not.

Q.—Were you given to understand, or was the meeting informed in any

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way, verbal or otherwise that that 8,640 acres was part of the lands which Pope and Fowler had rejected when they were making their selection? A.—No, I do not remember that sir.

Q.—Would you remember if you had heard it? A.—I think I should, yes.

Q.—Were you told that Messrs. Wilson, McGillivray and Foster were interested in that land, or were you told any more than just appears here in the report? A.—I was told the whole story by Mr. Wilson in Chatham at the commencement, at the outset, and I supposed we were paying the same price for these lands, \$5; that is what the company was paying for the others, and I do not think I would have raised any question about it.

Q.—Were you told that Foster, McGillivray and Wilson were interested not only in the original sale, but in the sale of the 8,640 acres? A.—I was told they were interested in the original sale, and I do not know that I was specifically told that they were in this latter sale, but I suppose I must have known that they were.

Q.—Why do you suppose that? A.—Because we got our lands through the syndicate.

Q.—The directors report that the company purchased through Pope and Fowler 8,640 acres of land for \$5 per acre. I want to know whether you knew any more than that? That does not say a word about the syndicate. Did you know anything more than that about the 8,640 acres? A.—I understood all our lands were coming as they came to Pope and Fowler, but they really came through the syndicate. Mr. Wilson told me about it originally in Chatham. The 8,640 acres was coming from the same source, and I have no doubt it was coming through the same channel and on the same terms.

Q.—You put it as a matter you would have understood without being told? A.—Yes, I think so.

Q.—And it would not have raised any objection in your mind? A.—No.

Q.—You do not remember any further explanation being made, further than appears in this report to the shareholders at their meeting? A.—No sir.

Q.—Don't you think you would have remembered it if it had been discussed or explained? A.—Yes, I think so. I was there at the meeting I presume.

Q.—Yes, Sir John Boyd, Matthew Wilson, George P. Scholfield, Hon.

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(G. P. Scholfield, Ex'd.)

George E. Foster, Mr. VanDusen, and the Union Trust Company by proxy. What do you recollect with regard to the exercising of the option by the Union Trust Company? A.—Well, they first exercised that option and became stockholders.

Q.—And then afterwards? A.—They subsequently made a request to become mortgagees. Again, I was not very well satisfied, and I so stated to the meeting, but the position of affairs had sufficiently advanced that I did not think there was any risk in it.

Q.—That is you thought the original risk, the personal risk of your own had been— A.—Had been eliminated. Well they decided to change over from stockholders to mortgagees, and I said I had not any objection as far as I was concerned, I was the only person who was really outside of the Trust Company I fancy; so it was exercised.

Q.—Then did you hear anything said at that time about their not only turning their advance stock into mortgage, but also giving up their bonus stock? A.—I think I did. I think it was read in the meeting.

Q.—That is the meeting of the Great West Land Company? A.—I think so. I would not be positive about it.

Q.—Was there any conversation with regard to it? Did it strike you as peculiar that they should have given that up? A.—Well, I had an idea that they were particularly anxious to become mortgagees.

Q.—That is in respect of their advances? A.—Yes.

Q.—Had you an idea that they were particularly anxious to get rid of this asset which had not cost them anything? A.—Well it would seem reasonable, if they decided to change their minds again that they should also do something for the company in that way.

Q.—You speak of that as something which passed through your mind then? A.—No.

Q.—Of course the Great West Land Company did not benefit by it one way or the other? A.—No, it went back to the syndicate from whence it came.

Q.—Was that ever discussed between yourself and Sir John Boyd? A.—Never sir.

Q.—Mr. Wilson desires me to ask you—and of course there could be no objection to my asking—were you

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aware from the start that the syndicate was making 50 cents an acre?
A.—Yes.

LIEUT.-COL. DAVIDSON re-called. Examined by

MR. SHEPLEY: Q.—I see that in connection with the instance that Mr. Hellmuth has pointed out you were apparently present at the meeting of the 20th September? A.—I think this only emphasizes what I said. The book is always signed by somebody. It is quite possible I might have been late.

Q.—You think this emphasizes the position you were taking? A.—Exactly.

Q.—That the book was always signed by somebody? A.—Yes, and some of those who were present might have signed it afterwards.

Q.—There is apparently, no other instance in which nobody has signed at all? A.—No, I don't think so. I think that only emphasizes the stand I take.

Q.—There are no other instances than those of the 13th and 28th of November in which the signatures are entirely absent, in this book? A.—I have not looked through the book.

Q.—That seems to be so. You do not at all withdraw from the position you took? A.—I think that strengthens my position.

MR. McWHINNEY re-called. Examined by

MR. SHEPLEY: Q.—Mr. McWhinney, you are already sworn and you have told us what your present position is in the Trust Company and the length of time you have been there. Are you familiar with this attendance book, as it has been called? A.—I have been for a short time, recently.

Q.—And I suppose you know the book itself? A.—Oh, I am familiar with the book, yes.

Q.—What is the custom that you have seen observed with regard to the signatures in this book, when a meeting is held? A.—The custom is to pass the book around the first thing at the meeting and have each one who is present, sign.

Q.—Supposing someone comes in late and the discussion is going on, and he does not get the book, what then? A.—Personally I keep an independent memorandum of the members present and I get them to sign it afterwards in case it should be overlooked.

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(Mr. McWhinney, Ex'd.)
(R. C. LeVesconte, Ex'd.)

Q.—The first thing that is done at the meeting is to pass the book around among those who are there at the opening of the meeting? A.—That has been my practice.

Q. This instance of the 20th September, 1906, illustrates what you are just speaking about? A.—Yes, those are my initials. I put those down to show that they were present and had not signed so that I would know, whom to ask to sign it. I endeavored to have it done immediately afterwards, so that they would have some recollection of having been present.

Q.—Have you, in your experience, known of an instance in which the attendance book was not signed at all by anybody? A.—I cannot recall an instance.

Q.—Whose writing is that? A.—It is Mr. Foster's, I think.

Q.—The book is not paged, but these words are in this attendance book, "Directors' meeting, December 26th, 1905." That, you say, is Mr. Foster's writing? A.—I think that is Mr. Foster's writing.

Q.—Mr. Tilley makes a very capital suggestion, because, no doubt, we do not want to retain the book itself. There are twenty lines on each page where this gap is; the entries on the left hand page occupy seven lines, commencing with the first and going to the seventh. Then the rest of the left hand page is blank. Then the next twelve lines of the right hand page are blank. The words "Directors' meeting, December 26th, 1905," occur on the thirteenth line. Then there are two blank lines, after which appear three lines with signatures upon them, and there are two lines at the bottom that are blank. Then it is also to be taken down that the words "Directors' meeting, December 6th, 1905" on the right hand page are in Mr. Foster's handwriting, but he does not sign the book himself as being present on that occasion. That is all, Mr. McWhinney, thank you.

If I may just depart from the order, Mr. LeVesconte is here and he desires to make a statement, which, of course, I am perfectly willing and glad that he should do.

ROBERT C. LEVESCONTE recalled. Examined by

Q.—What is it you desire to say, Mr. LeVesconte? A.—I would like to see that option for \$250,000, Ryan to Fowler.

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Q.—The one that you gave your evidence about? A.—The one that I said I had no recollection of drawing, although it is my composition. You might look at this docket 24 in the meantime, if you wish. If you have doubts about whether—

Q.—I did not say I had doubts; I asked you to bring the book? A.—“Served by sheriff with subpoena to attend before the Royal Commission.”

Q.—I will make a general statement which, I hope, will be satisfactory to you. The witness produces his docket No. 24 and the entries at page 33, under the head “timber limits” all relate exclusively to Mr. LeVesconte’s summons to and attendance upon this Commission. Is that satisfactory? A. Yes, entirely so. And the first entry is, as I said the other day, “served by the sheriff with subpoena.” There is no entry at all between docket 20 and that docket.

(The Secretary hands the witness Exhibit No. 502.) This is the document.

Q.—You want to say something about that, Mr. LeVesconte? A.—Yes. That purports to be an original document. Now, when this was produced to me the other day, on comparing it I said it was my composition, although I had no recollection whatever of ever having drawn that document. I say now that I did not draw that document, that I never saw that document, until it was handed to me by Mr. Shepley. I still say that it is my composition, with the exception of where there is “No. 2, timber berth 233, No. 2, 28 square miles.” I say that is not in my document. Now this has evidently been copied from the \$200,000 option which I prepared, but I say now that that is not prepared by me, it has not been written in my office, it is not written on a quality or make of paper that I have ever used in my office; it is not in a carbon paper that is ever used in my office and I say, most emphatically, it is not prepared by me, although on looking it over the other day I admitted that it was my composition. I say that it is my composition, except the line “berth 233—2, 28 square miles.” That was added, and the \$50,000 added to the consideration. Now the \$250,000 option which I prepared was an option from Mr. Fowler to John Harper and that is the only \$250,000 option I prepared. This one I never saw or heard of, until Mr. Shepley produced it.

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(R. C. LeVesconte, Ex’d.)

JUDGE MacTAVISH: The Harper option is before us? A.—Yes.

Q.—It is Exhibit 511? A.—Yes, I produced that option.

MR. SHEPLEY: Do you desire to make any further statement with regard to the entries in your docket of the 25th and 26th January, 1904. On the 25th your entry is as follows:—“Several consultations with Ryan and Fowler during the day and finally closed about 6.15 at \$170,000 exclusive of Albert Canyon logs to be taken at \$4.50 per 1,000 at water. Purchasers to pay Crown dues thereon. Purchaser to take supplies and addition to plant at cost as per option. Ryan to apply at once for extensions. The limits covered by purchase—”

Then comes a memorandum of the limits, their numbers and mileage.

“Instructions to prepare agreement in duplicate to-morrow morning. Fowler to call and assist.”

Then on the 28th,

“Consultations with Ryan and Fowler. Instructions to draw agreement for sale, 15 fol. Revising and engrossing in triplicate and afterwards engrossing two copies with consideration \$225,000. Attending on execution by Fowler at Albany Club and attending on execution by Ryan at his residence, paid car fare.”

A.—I think that is a fair entry.

Q.—Of what took place? A.—Yes.

Q.—So what you say is, you did not prepare the double option in the first instance, but you did in the second instance? A.—The second was not an option at all.

Q.—We will call it by any time that describes it better. An agreement? A.—An agreement, yes. A sale agreement.

Q.—Is that all you desire to say, Mr. LeVesconte? A.—I think so. In reference to that telegram which I could not find I went to Mr. Montgomery about it. I want to have that cleared up. It is just exactly as I recollected it. I have got a copy from Mr. Montgomery, now. Telegram by the Ashcroft Water Electric Improvement Company to Mr. Montgomery, and a second one from John Shields to Mr. Montgomery. The occasion of these being sent to me was that these moneys were being attached and Mr. Shields and Mr. Montgomery notified me that the moneys were not attachable on a judgment against John Shields, that they belonged to the Ashcroft Company and not to private individuals.

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Q.—You have made copies of the letters I indicated to you the other day? A.—I have.

Q.—And you add the telegram to those copies? A.—I put in what was furnished by Mr. Montgomery.

(The copies of letters and telegrams referred to, filed as Exhibit 548.)

MR. SHEPLEY: As the result of a conference with my learned friend Mr. Tilley, I have to make this statement; we are not able to proceed until two witnesses, whom I need not name at all, have been examined. We have been, as your Honors are aware, very much hampered and delayed by the necessity for pursuing in the most difficult fashion inquiries which ought to have lain upon the surface, had witnesses obeyed their subpoenas. That, of course, does not apply to any witnesses now present. Mr. Foster has been most assiduous in his attendance, and as soon as Mr. Wilson received word he made haste to come. I do not think, however, that it is proper, in the interests of the inquiry, that I should go further until I have some information which I can only get from the mouths of the witnesses themselves. I therefore suggest to your Honors that the matter should stand, not indefinitely, but to an early day next week, so that the attendance of the witnesses, whom I speak of, may be assured. As I told your Honors upon receipt of the telegraphic message from Mr. Fowler the other day, I have hopes that Mr. Fowler will be here in the meantime. Had he been here when I wanted him this inquiry would have been over now; we would have had the information which we have had to delve for in the most difficult and embarrassed fashion. That is the position of the matter as I have to put it before your Honors this morning.

MR. WILSON: I might say, your Honors, that I have been here in attendance and I have asked my learned friend Mr. Shepley, from time to time, to let me off, to hear what I had to say, because our Assize Court in Chatham sits next week and my engagements are many and it is very difficult for me to make them fit in with the engagements here. In addition to that a statement has been made by Sir John Boyd—I understand in writing—in regard to something which took place between him and me; without consulting me, of course; and I would ask at least that my convenience might be consulted to some extent and that in justice to me I might put in a statement in regard

to the matter which Mr. Shepley will have the advantage of and which I will verify upon oath, so that that can go in now, following what the Chancellor has said.

MR. SHEPLEY: What my learned friend says with respect to his engagements of course does appeal to one, necessarily. But we all have to make sacrifices in the public interest and my learned friend will see the force of that at once. My learned friend is in error in supposing that Sir John Boyd filed any written statement. Sir John Boyd refreshed his memory from some notes he had made, but his statement was upon oath in the witness box, taken down by the stenographer just as the statement of any ordinary witness is taken. My learned friend will oblige me very much if he sees his way to hand me the statement he speaks of. It will facilitate me very much. I do not, however, assent to its being put upon the records, at the present stage, at all events. Perhaps not at all, but at all events not at the present stage.

MR. WILSON: Why should my learned friend not allow the statement, if I am prepared to verify it upon oath, as I am, to be put in now? And I will submit myself to any further examination. No doubt my learned friend will want to examine me further, but surely the statement which I desire to put in, in regard to what took place between the Chancellor and myself and in regard to the Great West Land Company to which that related ought now to be received. It will not take a moment and will not bar counsel from examining me as fully as he sees fit in regard to it.

MR. SHEPLEY: I may be right or wrong—of course we are all fallible—but it is not, in my humble judgment, the proper way to conduct the inquiry. I shall be obliged to Mr. Wilson if he can see his way to let me have the statement he speaks of, and I shall endeavour to deal fairly both with him and with the statement; but I cannot accede to the general suggestion; I cannot do one thing in one case and another thing in another.

MR. WILSON: I thought you already had done that with the Chancellor?

MR. SHEPLEY: No.

MR. WILSON: Was the Chancellor not allowed to make a statement?

JUDGE MACTAVISH: He gave his evidence here in the witness box.

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MR. SHEPLEY: He was put upon oath and gave his evidence as an ordinary witness gives his evidence.

MR. WILSON: He volunteered to do so?

MR. SHEPLEY: My learned friend is partly right and partly wrong. Sir John Boyd was brought here by me and put in the box and sworn, and gave his testimony. He subsequently desired to add something to it, and, of course, as many witnesses have done, he was permitted to do it.

JUDGE MACTAVISH: That occurred on the following morning.

MR. WILSON: Then I shall hand to my learned friend, and I shall make public the statement, because there is no other way for me to answer what has been said.

MR. SHEPLEY: I cannot, of course, prevent Mr. Wilson doing anything he likes with the public. I should deprecate such a course but, of course, he must be the judge of his own method.

JUDGE MACTAVISH: Then you have nothing further for us to-day, Mr. Shepley?

MR. SHEPLEY: No, your Honor, nothing further to-day. The threads of this inquiry are being pretty well brought together and I shall not, I think, be very long, when we get started again.

JUDGE MACTAVISH: I regret very much that if we adjourn to-day we shall not, perhaps, be able to sit before Wednesday of next week. I postponed some rather important appointments that I had last week, thinking it only fair to the people interested in this investigation that we should go on, at all events at the present stage, without interruption. These engagements are waiting for me at home and I think I will have to take them up before I return. If any interest will suffer by an adjournment until Wednesday I might make a very strong effort to be here on Tuesday morning—but there is some uncertainty as to when you can get your witnesses.

MR. SHEPLEY: The uncertainty in the one case is the uncertainty that existed, but there is no uncertainty in any other case.

JUDGE MACTAVISH: First, will an adjournment until Wednesday suit the convenience of counsel?

MR. HELLMUTH: As far as I am concerned it would be more convenient for me to go on on Tuesday, but I do not ask that that should be considered.

Ind. Order of Foresters.

(G. W. Ross, Ex'd.)

JUDGE MACTAVISH: In determining the question counsel will, perhaps, give us their best prognostication as to how long the remainder of this particular inquiry will last?

MR. LEBEUF: I think that is the first point to decide; how long will it last?

JUDGE MACTAVISH: I do not press that at all, but if counsel have an opinion on the point I would like to hear it?

MR. SHEPLEY: In my best moments I am inaccurate, and in a subject of this sort I am sure to be. It is very difficult to say; much depends on the witnesses themselves.

MR. KENT: The witnesses can spin it out more than the balance of the week.

JUDGE MACTAVISH: If we commence on Wednesday, can you finish next week?

MR. SHEPLEY: Again, what I can do with the witnesses may somewhat depend on your Honors. I can only say that I sincerely hope so, and I have every hope and expectation that I shall be able to do so. At the same time your Honors are quite aware that the production of documents which I have never seen may open avenues of inquiry which I will be bound to follow.

JUDGE MACTAVISH: Then, Mr. Shepley, I think we will say Tuesday morning at 10.30. That seems to meet the convenience of a very pronounced majority.

(On Friday, 5th October, adjourned to Tuesday, 9th October, at 10.30 a.m.)

EIGHTY-SECOND DAY.

MORNING SESSION.

TORONTO, Tuesday, 9th October, 1906.

INDEPENDENT ORDER OF FORESTERS, (continued).

GEORGE W. ROSS, sworn. Examined by

MR. SHEPLEY: Q.—You are a member of the Board of Directors of the Union Trust Company? A.—Yes.

Q.—When did you become a member of the Board? A.—Over two years ago; I think it is over two years ago.

Q.—You are, of course, a stockholder? A.—I am.

Q.—Holding 10 shares of stock, is it? A.—Yes, \$1,000, and premium on that \$1,000.

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(G. W. Ross, Ex'd.)

Q.—Were you aware of the transaction of the Union Trust Company—did you become aware of the transaction of the Union Trust Company with the Great West Land Company? A.—I knew of it.

Q.—You knew of it? A.—Yes.

Q.—Were you aware that in the course of the transaction between the two companies the Union Trust Company had acquired certain shares of stock? A.—No, I did not know that.

Q.—Did you not become aware of that? A.—No.

Q.—It has been stated here that there were 237 shares of paid up stock issued practically by way of bonus which were held by the Union Trust Company as its compensation for having financed the transaction. You say you were not aware of that? A.—I was not aware of that.

Q.—And you were not perhaps aware that Dr. Oronhyatekha held 100 shares? A.—No.

Q.—Well then do you remember in last November some discussion taking place among the Directors with regard to treating the transactions between the Union Trust Company and the Great West Land Company as a loan and taking a mortgage for the advances? A.—I know that the Union Trust Company wanted to unload itself of its lands sometime within the last year or so.

Q.—That was a policy we have been told that was advocated by Mr. Stevenson? A.—Yes, and by Dr. Oronhyatekha.

Q.—Well then we have of course the papers here which show it; the Union Trust Company gave up the stock which had theretofore been held by it for advances, taking instead a mortgage for the full amount advanced upon these lands. Were you aware of that transaction? A.—How would you put that again?

Q.—Perhaps I should have put this question first; were you aware that the Union Trust Company, in addition to the stock I have spoken of, had taken stock in the Great West Land Company for the amount of money it had advanced in financing the transaction? A.—No, I was not aware of the stock transaction at all.

Q.—What we find was done is this; the Union Trust Company surrendered all the stock that it had taken in respect of its advances, and instead of holding stock, took a mortgage

upon the lands for the full amount of the advances; perhaps you were not aware of that? A.—No, I was not aware of that.

Q.—There are three meetings of the Directors of which minutes are found in the book, the 7th, the 13th and the 28th November, and you are said to have been present at all three meetings. I am going to direct your attention to the minutes themselves and ask your recollection with regard to it. On the 7th November the minute book, at page 22, records these gentlemen as being present: Mr. Stevenson, Mr. McGillivray; Colonel Davidson, yourself, Mr. Wilson, and Mr. Foster, and after reading the minutes and dealing with some other matters it says, "Some discussion was had with reference to the Great West Land Company and the position of the Union Trust Company in relation thereto. This matter was however left over to be taken up at the adjourned meeting. The meeting then adjourned until Monday 13th, November." The matters which were mentioned were the salary of George Harcourt, the matter of proper accommodation for the work of the Union Trust Company, with the idea of having the Standard Bank change its present quarters. Do you remember those matters? A.—Yes, I remember the matter of Mr. Harcourt's salary and the change of the Standard Bank quarters.

Q.—Do you remember the discussion with regard to the Great West Land Company? A.—I do not remember anything particular about it. I could not say as a matter of fact that I remember any discussion about that at all.

Q.—On the 13th November, 1905, the minutes states that the adjourned meeting of the Board was held in the office of the Union Trust Company, the same gentlemen present, and the minute reads, "After full discussion in reference to the Great West Land Company it was decided on motion by Mr. Stevenson, seconded by Col. McGillivray, that the Trust Company assume the position of mortgagee with reference to its advances and payments to or for the Great West Land in respect of the stock received from the company." (Reads minute.) "And the company and President releasing to its original owners the stock which had been acquired under the former arrangement as set

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forth in the agreement of the 23rd June, 1903." Do you remember the full discussion spoken of? A.—I do remember that we did discuss, as I said a moment ago, the question of unloading ourselves of these lands.

Q.—Do you identify it with any particular meetings? A.—No, I do not.

Q.—Do you remember at any time or at any meeting any discussion with regard to giving up the bonus stock which the Union Trust Company held, not for its advances, but as consideration of having made advances? A.—I do not remember anything about the surrender of the stock.

Q.—Do you think you would have remembered if such a discussion had taken place? A.—I think I ought to.

Q.—You think you would? A.—I think I would.

Q.—Then the minute proceeds, "The solicitor was instructed to prepare the necessary papers, to be duly executed by the officers of both companies." Well then I ought to call your attention to the fact that there are the minutes of other matters at this meeting, and see what your recollection is in regard to these matters. "The General Manager reported that the space in the historical room would leave sufficient room"—(reads minutes.) "On motion it was ordered that measures be taken to put the room into a condition to receive the Trust Company as early as possible? A.—That was discussed.

Q.—Do you connect that discussion with any particular meeting? A.—No, I do not.

Q.—"The Manager was again authorized to confer with the Manager of the Standard Bank with reference to the change," (reads minute)? A.—I remember that distinctly.

Q.—But you still do not identify that with any particular meeting? A.—No, I do not.

Q.—There is a minute on page 25 of the minutes of the meeting of the 28th November at 3 p.m., at which the following gentlemen are recorded as being present: Mr. Ross, Mr. Foster, Mr. Wilson, Col. Davidson and Mr. McGillivray, and after a statement that the minutes were read and approved, the minutes proceed, "The solicitor of the company, pursuant to the instructions of the board at its meeting of November 7th, read the agreement and mortgage between the Union Trust Company and the Great West Land Company. After some

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discussion it was moved by the Hon. G. W. Ross, seconded by Col. Davidson, that the form of agreement," (reads resolution.) "And that the proper amount be filled in by the General Manager." Do you remember that agreement being placed before the Board and discussed? A.—I do not remember it.

Q.—Do you remember moving such a resolution? A.—I do not.

Q.—Do you think that you would have forgotten if so important a matter as that was discussed at a meeting so recent as the 28th November? A.—Is that the agreement in which the surrender of stock was provided for?

Q.—Yes? A.—Yes, I think I would remember it.

Q.—Then it proceeds to resolve that the form of mortgage and assignment as submitted be adopted with the amendments made, and that it be executed after the blanks be filled in, and that a by-law for that purpose be passed and a meeting called and so on. You say the same as to that? A.—Yes.

Q.—And you think you would have recollected if anything of that sort had taken place in your presence? A.—I think I would.

Q.—You had not anything, I think, to do with the Great West Land Company? A.—No.

Q.—You were not a stockholder in that? A.—No.

Q.—And you had no knowledge or concern in it? A.—No, the lands were bought before I became a member of the Board.

Q.—You were not on the Board in 1903 when the transaction originated? A.—I do not think so. I think these lands and properties were bought before I became a member of the Board. Then later it was thought, after I became a member, not from my motion, but it was thought we should dispose of them, and they were disposed of.

Q.—That is after the mortgage was taken, the mortgage was realized upon—

MR. NESBITT: He did not say that. He has put it quite the contrary.

MR. SHEPLEY: Yes. Then I will put it in another way.

Q.—Do you remember what shape the realization took, or what shape the transaction assumed after the mortgage was given? What was done towards—I think you used the words yourself "unloading the lands?" A.

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—Well we employed an agent, a Mr. Hobson, to go over those lands in the West to see what their marketable value was with a view to put them upon the market, to realize as quickly as possible. That was one thing that was done. Then the agreement was made with Dr. Montague to dispose of a block of over 100,000 acres of these lands. So in these ways we were trying to unload these lands and get our money out of them.

Q.—That is the holdings, whatever they were, that you had of these North-West lands? A.—Yes, get them off at a profit.

Q.—Did you mean to intimate that Dr. Montague had anything to do with the particular lands embraced in this mortgage? A.—No, I do not know that he had.

Q.—Do you remember a book which was called the Attendance Book or Signature Book? A.—Yes.

Q.—What is your recollection as to the custom of the directors in dealing with that book? A.—We usually signed it. It was put before us.

Q.—At what stage? A.—Sometimes before we entered upon the business of the day, and other times during the business if a member came in late, he would probably sign the book when he came in.

Q.—What if you were all there when the business began? A.—The book was passed round.

Q.—And the signatures of the directors put in it? A.—Yes.

Q.—What do you say as to that being a rule? A.—I do not say that it was invariably the rule. I would not want to be considered as saying it was always signed, because I am not sure that it was.

Q.—About yourself, did you always sign? A.—I do not know that I did.

Q.—You have just that recollection of the practice of passing the book round to those who were present? A.—Yes.

Q.—And then others signing as they came in? A.—Yes, but not saying that it was an invariable rule.

Q.—If you had been present at a meeting, taking an active part in it, would you expect to find your signature in the attendance book? A.—I cannot say that I would.

Q.—You cannot say that you would? A.—No.

Q.—Why do you feel uncertain as to that? A.—I never called for the book at any time. Our allowance

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was a monthly allowance, and in making up our fees as directors we were not asked—we were not checked by the Attendance Book, and unless the book was laid before us we were not so particular to see it signed.

Q.—What about your fees if you did not attend the meeting? A.—No reduction.

Q.—No matter whether you attended or not? A.—Well, I would not just like to say that. There was no rule or by-law.

Q.—No rule or by-law that you are aware of on that subject? A.—No, not to that effect.

Q.—This is the Attendance Book we have been speaking of. You will see going back to the previous page 19th October, certain signatures. Yours is not among them? A.—No.

Q.—On the 7th November you see certain signatures, among which yours does occur? A.—Yes.

Q.—Then parts of two pages left blank; then, Directors' Meeting, December 26th, at which there are three signatures, but not yours? A.—No.

Q.—And on the 30th I see your signature again? A.—Yes.

Q.—Did you ever observe before, the blank that was there? A.—No, never.

Q.—You never had that called to your attention before? A.—No.

MR. SHEPLEY: I want to put in the Attendance Book, it may be returned but I want it an original exhibit. (Exhibit 549).

Q.—Are you able to say whether you were in Toronto during this period, on these dates? A.—I think I was in the city.

MR. SHEPLEY: That is all I desire to ask Mr. Ross. If Mr. Nesbitt wishes to ask any questions I shall be quite at his service.

MR. NESBITT makes a suggestion to Mr. Shepley:

MR. SHEPLEY: Q.—Mr. Nesbitt wishes that you should be asked whether you took any interest in the Great West Land transaction which had been originated before you came there? A.—Not particularly.

MR. NESBITT: Then, whether the habit was if a resolution was carried, to give it to some person to move? Does it necessarily follow because a member moves a resolution that he prepared it?

MR. SHEPLEY: Q.—Mr. Nesbitt wants to ask whether it would neces-

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sarily follow that any particular director prepared a resolution which he moved, or was it handed to him? A.—Sometimes it was, and sometimes the view of the Board was crystallized into a resolution just at the time, either by the Manager or the Board.

Q.—Without mentioning any mover or seconder at all? A.—Sometimes.

MR. NESBITT: Does he carry in his mind the difference between the disposition of the Montague lands, the Great West Lands and other lands in which the Trust Company were interested, or was it just the general policy he carries in his mind?

MR. SHEPLEY: Q.—Do you carry in your mind the general policy merely of disposing of these lands, or what was done in particular instances, say the Montague lands, the Great West lands, or other lands? A.—I know more about the Montague lands, because they were more recent, and I was taking more interest in it, because I felt that we should turn our land into money. I felt we should not carry so much real estate.

Q.—You think you would be more familiar with that than with other transactions? A.—Yes.

MR. NESBITT: Would Mr. Ross say a meeting did not take place because he did not find his signature in the book?

MR. SHEPLEY: I think that is covered.

Q.—Mr. Nesbitt wishes to ask whether you will say a meeting did not take place, merely because you do not find your signature there? A.—I did not say that.

WILLIAM R. FRANKISH sworn, examined by

MR. SHEPLEY: Q.—You are a clerk employed in the Union Trust Company? A.—As cashier there.

Q.—And you were in the same capacity in November last? A.—Yes, in the same capacity.

Q.—I am told that certain pages in this Minute Book are in your handwriting. Will you verify that and tell us which pages are in your handwriting? A.—That one is mine—pages 22, 23, 24,—all that is on it. I think that is all that I wrote.

Q.—Whose writing precedes those three pages and follows them? Is it the same man's writing? A.—I think so, yes. It was Mr. McDougald's. He was in the habit, in fact it was his

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(W. R. Frankish, Ex'd.)

duty to write out the minutes. At this particular time I do not recollect what was done.

Q.—That was part of his ordinary duty? A.—Yes.

Q.—And it was not part of your ordinary duty? A.—No.

Q.—I would like you to look at the minutes in this book. Do you know this book, the Great West Land book? A.—Yes.

Q.—At page 113 you have certain minutes; in whose handwriting are those? A.—Those are in McDougald's handwriting also.

Q.—That is the minutes of the Great West Land Company at pages 113 and 114. That is all in his handwriting? A.—Yes.

Q.—Are you aware of the sources of information from which Mr. McDougald wrote the minutes when he was writing them? A.—Yes.

Q.—What were the sources of information that he had? A.—I only speak from experience. The minutes that I got from Mr. McDougald—

Q.—I am asking you first if you knew as to the general sources of information when McDougald was writing the information himself. Then I will come to your knowledge afterwards. Do you know anything about it, as far as your knowledge goes? A.—Mr. Foster made a draft minute, and he called the stenographer, and she had it typewritten and the minutes were copied from the type-written copy into the book.

Q.—That is the ordinary method in which the thing was done? A.—Yes.

Q.—Mr. Foster dictated; did he make a draft himself? A.—He made a draft himself and then dictated to the stenographer, and then Mr. McDougald copied into the book from the typewritten document.

Q.—What became of Mr. Foster's draft? A.—I should think it would be filed away with the typewritten minutes.

Q.—And where are the typewritten minutes put? A.—I do not know. That would be the juniors.

Q.—That you do not know about? A.—No.

Q.—Are you just supposing that? A.—Well, I remember different times I have seen the typewritten minutes in the back or front of the book, just left there, possibly for the junior to file away.

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Q.—When you say that you do not know whether he did file them away as a matter of fact? A.—I could not swear.

Q.—Who was the junior last November? A.—Mr. Armstrong.

Q.—Is he there still? A.—He is there still.

Q.—Then we will come now to the minutes which you actually wrote. Have you a recollection of what you copied from? A.—Yes, I copied from the typewriting, what the stenographer had typewritten from Mr. Foster's draft.

Q.—Did you see Mr. Foster's draft? A.—Attached to it, yes.

Q.—You saw the typewritten document and you copied from the typewritten document? A.—Yes.

Q.—You have no doubt about that? A.—No doubt at all.

Q.—What did you do with the paper or papers after you had made your copy in the book? A.—I put the minutes as I got back into the book, and handed them to Mr. McDougald, —put them back on his desk.

Q.—Who asked you to do the writing? A.—McDougald asked me. I forget the circumstances. I think he was either very busy that morning or going away, or something. I just forget what it was.

Q.—At all events it was at Mr. McDougald's request? A.—Yes.

Q.—Did you do all the writing you did there on the same day? A.—Yes.

Q.—And from the same document? A.—Yes.

Q.—It was all one typewritten document? A.—Yes.

Q.—Are you positive about that? A.—I am positive about that.

Q.—Can you fix about the date you did this writing? A.—No, I could not, because sometimes the minutes were not handed out for probably two or three days, or sometimes a week, after the meeting.

Q.—You observed—probably you have not, and if you have not, I want you to do so—you observe that you appear to have copied the minute of the 7th and of the 13th; that is two meetings? A.—I recollect those two meetings; they were both done at the same time.

Q.—You recollect they were both done at the same time? A.—Yes.

Q.—And you say they were both copied from the same document? A.—Of course the meeting of the 13th

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would not be on the same document as the meeting of the 7th.

Q.—That is what I am asking you; do you remember how that was? A.—Not on the same page; they were all attached together.

Q.—It was not continued down, but a new heading was taken? A.—Yes, and attached to it.

Q.—Have you looked or do you know of any search being made for these documents? A.—I do not.

Q.—And you cannot fix the date at which you did this? A.—No, I could not.

Q.—The next meeting was the 28th November; you cannot say as to the date? A.—It might possibly have been that it was on the 28th November I did it. Sometimes the minutes are left at the last minute, and you have to fill them in before they call the meeting.

Q.—But as to that you are not able to state with any certainty at all? A.—No.

MR. SHEPLEY: Anything you want to ask, Mr. Nesbitt?

MR. NESBITT: No.

DUNCAN J. McDOUGALD sworn, examined by

MR. SHEPLEY: Q.—You were in the employment of the Union Trust Company last year? A.—Yes.

Q.—When did you leave their employment? A.—I think it is perhaps six weeks ago. I just do not remember the date, but it would be about six weeks.

Q.—Quite recently at all events? A.—Quite recently.

Q.—In what capacity were you employed there in the month of November, 1905? A.—I imagine a sort of utility clerk. I had various duties to perform.

Q.—Utility clerk is about as good a description as you can give. Was it among other things part of your duty to write up the minutes of the Union Trust Company? A.—I think the greater part of the time I was there I did, with perhaps very few exceptions.

Q.—Apparently you seem also to have written the minutes of the Great West Land Company? A.—I imagine I did. I know I wrote a great many of them anyway.

Q.—There, for instance, on page 113 of the Great West Land Company Minute Book is a meeting of direc-

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tors of 28th November; is that in your handwriting? A.—Yes.

Q.—Then I will refer to another minute. There is a minute of a meeting of shareholders December 11th; is that in your handwriting? A.—That is in my handwriting.

Q.—That is at pages 67 and 68 of the Great West Land Company's Minute Book? A.—Yes.

Q.—Then coming to the Union Trust Minute Book, we will just turn over the pages; page one? A.—That is mine.

Q.—And is this all yours? A.—Yes, down to page 22.

Q.—From page 1 to 21 inclusive is in your writing? A.—Yes.

Q.—From 22 to 24 inclusive is not yours? A.—No.

Q.—From 25 on is all yours, excepting what is inserted in typewriting at pages 37, 38 and 39 and pages 48 and 49 in typewriting? A.—No doubt I put them in, but I do not remember.

Q.—51, 52, 53, 54 and 55 typewritten? A.—I did not put those in; those are recent.

Q.—At all events, as far as we need follow, say for 10 or 15 pages after page 24, that is all in your handwriting? A.—Yes.

Q.—What was your source of information? Were you copying when you made these minutes, or were you composing? A.—As a general rule copying from memorandums from Mr. Foster, sometimes written memoranda, but not very often memoranda in longhand; usually typewritten. Some one or two meetings I had a mere skeleton which I filled in myself, unimportant meetings.

Q.—But where there was important business done memoranda were furnished to you by Mr. Foster? A.—Yes.

Q.—Either typewritten or in longhand? A.—Yes, and I think on one or two occasions by Mr. McWhinney when Mr. Foster would be absent.

Q.—But if Foster was there, that was part of his duty? A.—Yes.

Q.—The last witness Mr. Frankish seems to have a recollection of Mr. Foster making first a draft, and then dictating from the draft to a stenographer, who took it down in typewriting; do you remember that? A.—That is very probable; I cannot say I remember it.

Q.—It is quite possible? A.—Yes, altogether likely.

Q.—Did you sometimes have not only the typewritten memorandum.

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but a longhand draft attached to it, or do you remember ever having anything of that sort? A.—I could not say positively, although it is quite possible that I had; simply attached it to the typewritten draft; at any rate it was the typewritten draft I would go by.

Q.—As a matter of recollection you do not recall having had two documents? A.—No, I could not say positively about that.

Q.—You would copy from that, and how long after the meeting had been held would you probably get it and copy it into the book? A.—I think on one or two occasions perhaps the same day, and other occasions perhaps two or three, and sometimes perhaps longer than that.

Q.—No regular practice about that? A.—No.

Q.—Now, then, do you remember the occasion upon which the handwriting of Mr. Frankish appears? A.—I do not.

Q.—You do not recall that? A.—No. Possibly I was busy, or there may have been some reason.

Q.—He says it was not part of his duty and you requested him to do it? A.—In all likelihood I did, but I do not remember just the occasion.

Q.—You do not recollect just what the reason was? A.—It may have been one of a dozen reasons.

Q.—Would you have, before turning it over to him to do, would you have the thing to copy from, or do you recall? A.—Oh, I imagine so.

Q.—You do not recall that as a matter of memory? A.—No, not as a matter of memory, but I imagine I had, otherwise I could not turn it over to him.

Q.—Then what becomes of the memorandum from which you copy, after you have copied it? A.—Sometimes they will stay for a period of two or three months in the back of the book, and then eventually destroyed after they have been inserted in this book and certified to.

Q.—Let us see how clear you can be about that? A.—I know as a matter of fact that that is what did occur.

Q.—That they were just left loose in the back of the book? A.—Yes; the book is carefully looked after.

Q.—And in the end you know them to be destroyed? A.—Yes, I know that as a matter of fact.

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Q.—Did you destroy them yourself?
A.—I think I did.

Q.—Up to the time you left? A.—Yes, or up to two or three months before I left I do not remember inserting any minutes in the book, but up to the—

Q.—You speak with certainty about that? A.—Yes; there may be a stray one lying in the office.

Q.—But that would be the extent, if there was one? A.—Yes, sometimes they are made in duplicate, two or three copies. After they would be inserted in the book they would be destroyed.

Q.—You say they were as a matter of fact destroyed by you? A.—Yes.

Q.—And if any should be in existence lying round the office, it is the result of accident, not of design? A.—Yes.

Q.—Mr. Frankish is mistaken when he says that a junior may have fyled them away? A.—I imagine he is mistaken.

Q.—You know as a matter of fact? A.—I know what became of the documents.

MR. LANGMUIR: Q.—Was there an agenda book kept of various subjects which came before the directors? A.—Yes.

MR. NESBITT: It deals only with the loans.

WITNESS: In some cases it dealt with more than loans.

MR. SHEPLEY: Is Mr. George W. Fowler here? (No one answers.)

MR. SHEPLEY: I will call him later in the day, when we can perhaps deal with the matter.

GEORGE E. FOSTER re-called, examined by

MR. SHEPLEY: Q.—I want at the earliest possible moment to put right something that I am afraid was not quite right the other day; that is with respect to the adjustment of the acreage as between the lands you got and the lands Pope and Fowler retained. I have had two statements made here, and I want you to look at them briefly and say whether they are substantially correct; and they indicate that the adjustment was made both with the Canadian Pacific and with Pope and Fowler upon the basis of the actual acreage as you said the other day? A.—The actual acreage received.

Q.—I want to put that straight at the earliest possible moment? A.—Yes.

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Q.—That is what you said the other day? A.—Yes, I explained that.

Q.—There was no cutting down of the stock interest? A.—No. The stock was allowed to remain at a certain point.

MR. SHEPLEY: I put that in—these two papers as one exhibit. First I take the adjustment of the C.P.R. There are two copies of two agreements, both made 29th July, and directly between the C.P.R. and the Great West Land Company? A.—Yes.

Q.—You recognize those? A.—Yes, two contracts, both included in that.

Q.—And these two documents deal with component parts of the 193,000 acres? A.—Yes, that is as I understand it.

Q.—Do you recollect the reason for putting these lands into two separate blocks? A.—That is the way they came to us, I think from the C.P.R. in two separate contracts, with two separate numbers, and we took them simply as they came from the C.P.R. That is my recollection of it.

Q.—You say the C.P.R. prepared the contracts in that way, covering the lands that were included in your large contract, and that you accepted them as they were drawn? A.—Yes.

Q.—Is the reason for that present to your mind? A.—No, I know of no reason for it.

Q.—Was there a difference between the location? Were there main line substitutes and branch line substitutes, or anything of that sort? A.—Not that I know of.

Q.—You are not aware of anything making the distinction? A.—There was no reason from our side; it was not a suggestion of ours, or anything of that kind.

MR. SHEPLEY: I will have copies made. (Exhibit 551.)

Q.—Returning to the statements, we have first a statement as between the C.P.R. and the Union Trust Company, which gives the dates at which various sums of money were due to the C.P.R.—that is the way this is, and then we have actual payments taken out in this way, so as to show exactly what payments were made, and when they were made, both principal and interest. Can you tell me first as to the interest; how did you come to pay such large sums for interest? That was in respect of the unpaid purchase money, I suppose?

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A.—Yes. The first payment would be in 1903, on which there would be no interest. Then there is a particular payment to be made in June, 1904, and added to that principal was the interest upon that amount from 1903 to 1904.

Q.—And so on for each year? A.—Yes.

Q.—And the interest gradually decreased till the principal is paid, till it runs out? A.—Yes.

Q.—Then when you deal with the actual payments, we have first the repayment to Pope and Fowler of what they paid the C.P.R.? A.—Yes.

Q.—And then cash paid to the C. P.R., making up the balance of the first payment? A.—Yes.

Q.—And then there is nothing about interest there? A.—No.

Q.—Then you paid very largely in round sums, and I see you got a discount for pre-payment? A.—Yes.

Q.—How was that brought about? A.—Six per cent.

Q.—How was that brought about? A.—What was the reason for it?

Q.—I do not find anything in the contract as to the right to pre-pay and get a discount? A.—There was nothing, but it arose in this way; just as soon as a question was mooted as to there being security for either debentures or for a mortgage, the question came up that we must have a clear title before we could either issue a debenture or assume a mortgage, and as we were paying six per cent. we agreed to pay for them just as soon as our funds would permit, taking the discount off in the case of payments upon which no interest was allowed.

Q.—And I see that in respect of the payments for 1906, 1907 and 1908, you received a discount of \$5,197.20? A.—Whatever it is, I instructed the accountant to make the calculations on that basis, and to make the adjustments also on the basis of the acreage, which I have no doubt has been carried out.

Q.—Then there is a small sum, \$1,193.40 still held by you, awaiting the final acreage adjustment? A.—That I think is held on the Pope and Fowler papers.

Q.—And then there is a sum for the C.P.R. too? A.—What I wanted to do was to keep as near to the actual acreage as possible, and to make sure we did not overpay on the final adjustments.

Q.—So that we may just as well have those amounts stated on the re-

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cord. In respect of the C. P. R. your discount for repayment amounts to \$5,197.20, and you are still retaining until the final adjustment of acreage \$1,193.40—a comparatively small sum? A.—Yes.

Q.—With Pope and Fowler the statement is similarly prepared, and you prepaid there? A.—Yes.

Q.—Apparently the discount you got for prepayment was \$5,475? A.—Yes, calculated at six per cent.

Q.—And you still have in your hands \$1,737.87 awaiting the final adjustment? A.—And in making the payments to Bennet and Peuchen of the amounts of money due to them, the proviso was made in the letter that there might be adjustments, and the acreage, when adjusted, if anything were found to be coming, why they would be held responsible for it.

Q.—The Agenda Book, Mr. Foster, has been sent for and has arrived. Was the Agenda Book a book which purported to get down in advance business to come before the directors' meeting? A.—All business with reference to investments. Occasionally, I think, trusteeships or estates taken; well that would be investments, I think that covers it.

Q.—You think investments would cover it? A.—Yes.

Q.—Are you making any distinction between directors' meetings and meetings of the Executive Committee? A.—At first, I think, the agenda was made out for the directors' meetings and the matters were gone through entirely at the directors' meetings, but afterwards an executive was formed.

Q.—About when was that, do you remember? A.—I cannot remember. It would be two or three years ago, two years ago, any way. Perhaps more.

Q.—I think I can refresh your memory, probably, with regard to that. You recognize this letter of 3rd January, 1905, addressed to the Board of Directors and signed by the Doctor? A.—Yes.

Q.—I put in a letter from Doctor Oronhyatekha to the Board of Directors of the Union Trust Company. I will read that now as part of the record. It need not be taken down. (Read and filed as part of Exhibit 552.) That suggestion was adopted? A.—Yes, and carried out.

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Q.—The three gentlemen named, Mr. Stevenson, Mr. McGillivray and Mr. Davidson was made the Executive Committee? A.—Yes.

Q.—Then, that Executive Committee was in full vigor of existence and work at the time that we are inquiring into, in November last? A.—Yes.

Q.—Now, if you will look at the Agenda Book with me, Mr. Foster, you can, perhaps, help me a little. There is a rubber stamp "November 3rd, 1905." "Present, Stevenson, Foster, McGillivray and Davidson." That would be the Executive Committee? A.—Yes, I was a member of the Executive.

Q.—You were a member ex-officio? A.—Yes.

Q.—Then that would be a meeting of the Executive Committee? A.—Yes.

Q.—Then in the margin is "Approved November 3rd?" A.—Yes. These are all loans.

Q.—The next is November 16th and Foster, McGillivray and Davidson are present. This seems to have got out of place, a thing that might easily happen, perhaps. It is marked "Approved November 3rd," although the top of the meeting is "November 16th?" A.—Yes. I don't know how that could be explained. Yes, I think it could be explained in this way, that it had really been decided on, on November 3rd, 1905, but that it had not been put into the Agenda.

Q.—This is a sort of ex post facto registration of what had been done before? A.—Yes, I think I recollect that that was the case.

Q.—Then, although that perhaps is a detail, I see that the next minute although under the head of November 16th is marked "Accepted November 15th." I would suggest to you that perhaps sometimes you did not really hold a meeting of the Executive but consulted the Executive separately and got their imprimatur? A.—That was the case with reference to that I know.

Q.—That is with reference to the first item? A.—Yes, but it might quite frequently occur, if two of the members of the Executive happened in and it was an urgent thing, I would consult them and they would give their consent and I would carry it through and then we would have it put in the next Agenda so as to be a matter of record.

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Q.—What are these initials? A.—That is J. A. McGillivray. These were probably in the I. O. F.

Q.—"A.E.C." may be some accountant in the I. O. F.? A.—I do not know. It does not refer any way to the members of the Committee.

Q.—Apparently all these are dated in the margin November 15th? A.—Yes, that is when they were accepted. All are loans.

Q.—Then the next date is November 29th, present Mr. Foster, Mr. Davidson and Mr. McGillivray. That was a meeting, also, of the Executive Committee, apparently? A.—Here you see the same, that is somebody in going through them has marked those off to keep the run of them.

Q.—Marked them, perhaps, as allocated to the I. O. F.? A.—That looks like "A. E. C." That is, I think, in making up a summary of the I. O. F. loans.

Q.—Then, apparently, you have agenda for meetings of the Executive Committee on the 3rd, 16th and 29th of November, and no agenda for the meetings of the Directors about which we have been inquiring? A.—Well, in fact when the Committee was appointed and got into its work it did the whole of the business with reference to loans and then a report was made to the Directors' Meeting naming the loans in the Executive and the pages and approving of them as a whole. Just getting the sanction of the Board of Directors to what had been absolutely done by the Executive Committee.

Q.—Then it is, perhaps, fair to say that it was not the custom to prepare agenda for the directors' meetings in that sense at all? A.—No, it was not. The agenda for the directors' meetings—what there was—I knew about what would be coming up and I would always make either a type-written or roundhand copy of the points of business to be brought up before the Board and take it with me and go through them seriatim. That would be a memorandum I had prepared myself.

Q.—Would that be preserved after the meeting? A.—No, simply to make sure that those points were taken up.

Q.—It was customary, was it not, Mr. Foster, to give notice of the directors' meetings? A.—Oh yes.

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Q.—Have you made any inquiry to ascertain with respect to these particular meetings? A.—Yes.

Q.—What have you ascertained? A.—I went through the books myself—following the track of others who have been through them—and made some memoranda and came to my own conclusions with reference to directors' meetings.

Q.—You can, perhaps, tell us what you found in the matter of notices?

A.—I found that in the matter of notice of directors' meetings the practice seems to have been this; we had short forms of notice for directors' meetings made out in blank, or they were made out when I would send a note out to the clerk to call a meeting of the directors or of the shareholders for a certain date and at a certain time, then a number would be run off on the typewriter and these would be sent out, but I find in looking through the records that they were not copied. Therefore, when I expected to be able to go to the letter book and find the records of the calling of the different meetings, I did not find it.

Q.—Did you find in respect of the calling of meetings, speaking generally, that one of the notices was copied in the letter book, although the rest were not? A.—I found in one instance, so far as I looked over that, a notice to Dr. Oronhyatekha was in the letter book and no other. Yes, I think maybe Matthew Wilson, a notice to Matthew Wilson in this way, that I wrote to Matthew Wilson, telling him that I enclosed herewith a notice for a meeting on next Tuesday. This was on the 4th and that would be on the 7th November and I asked him to come up the day before, so that we might talk over the matter of the Great West Lands and be prepared to discuss the proposition on the succeeding day.

Q.—That is on the 7th? A.—Yes. Now that letter is copied, and what took place there evidently was that I asked Mr. McDougald for a copy of the call for the meeting and I enclosed it in a letter to Mr. Wilson, and Mr. Wilson's letter was copied.

Q.—The letter to Mr. Wilson was copied in the letter book? A.—Yes, but the call that I enclosed to Mr. Wilson was not copied, and that seems to have been the regular practice.

Q.—Is there any record at all kept of the fact that notices calling a meeting had been sent out? A.—No, I don't think so, although it surprised

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me because I supposed that every call that went out, went out through letters and that these would be copied, but it seems not to have been done. I cannot be sure that I ever issued instructions that it should be done, but I supposed that every letter was copied before it went out, whether it was a call to a meeting or not.

Q.—Did you ascertain in your examination that the notice which was originally sent out for the meeting which was afterwards held on the 7th, was sent out for the 10th? A.—Yes, I noticed that.

Q.—Where did you see that notice, because that indicates a notice was preserved? A.—That is Dr. Oronhyatekha's notice.

Q.—That is the one you spoke of a moment ago? A.—Yes, I think so. I made a memorandum of them and the memorandum, unfortunately, I did not bring with me. It is at my house. But my impression now, when you call it to my mind, is that that was Dr. Oronhyatekha's and that the meeting was originally called for the 10th, but we found, apparently, afterwards perhaps, that Mr. Stevenson could not be here on the 10th, something like that might occur, as it often did, and then we consulted together and determined to call the meeting for the 7th and then I sent the letter on the same day to Matthew Wilson, enclosing a notice for the 7th. That is my explanation of that. I know it frequently occurred that we would have a meeting authorized for a certain day and that then, shortly afterwards, some member of the Executive or of the directors, Mr. Stevenson or someone else, would send down an intimation that it was impossible for him to be there on that day and we had better call it for such and such a day and so it went.

Q.—It was not an infrequent thing to change the date of the meeting after notice had been sent out? A.—Not at all, but in that case notice was again sent out, or the 'phone was used; one or the other.

Q.—Then what did that letter to Mr. Wilson say about the business of the Great West Land Company? A.—I think this is what it said, that Mr. Stevenson had a proposition to make with reference to the Great West Land Company and I would like him to come up the day before, so that we could be in a position to discuss it at the meeting.

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Q.—Then did Mr. Wilson come on the 6th? A.—I think so.

Q.—There is not any doubt about that? A.—There is not in my own mind. I have no documentary evidence of it.

Q.—And you were then familiar with the proposition that Mr. Stevenson had made? A.—I had talked it over with Mr. Stevenson. I knew what it was.

Q.—And you talked it over with Mr. Wilson? A.—Yes.

Q.—And did you come to a conclusion with regard to it? A.—Yes.

Q.—What conclusion did you come to? A.—The conclusion was to accede to Mr. Stevenson's view of the case.

Q.—That was the view that you have already explained to me pretty fully? A.—Yes.

Q.—That Mr. Stevenson entertained and expressed? A.—Yes.

Q.—Is it fair to say that you and Mr. Wilson had come to the conclusion that you would accede to that request, on the 6th? A.—If he came up on the 6th in sufficient time to see me on that day, then I think it is fair to say that we came, as far as we were concerned, to that conclusion; that we were agreeable and would submit it to the Board of the Great West. But he might come up on the 6th and I not see him until the next morning, the morning of the 7th.

Q.—Then let me put it in a little different way, just to cover the ground. Whether you saw him on the 6th or on the morning of the 7th, before the meeting of the directors was held on the 7th, you and he had come to your own conclusions? A.—We were agreed, yes.

Q.—And you were agreed to accede to the proposal Mr. Stevenson was putting forward? A.—Yes.

Q.—Then, will you tell me, if you recollect, what was the reason of the meeting on the 7th, for adjourning? A.—We adjourned to the 13th. The only thing that I can say as to the reason, and I think it was the real reason, was that the time was too limited for us to settle the question. Mr. Stevenson, I think, went away on the 13th or near that. He was making his preparations for leaving and he had a great deal of business to do and my impression is that we did not finish that subject for the reason that we were hurried for time and Mr. Stevenson had to leave and

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we left it over to the adjourned meeting on the 13th.

Q.—He had made a proposal which was clear and definite; give us a mortgage upon the lands for the whole amount of the advances and let us give up the stock. That was clear? A.—Yes.

Q.—And you and Mr. Wilson had made up your minds that you would accede to that before the meeting? A.—Yes.

Q.—Now, what remained to be settled? A.—Well, that is all the information I can give you. I know of no reason for the adjournment of that meeting except that we had not finished our business and that there was not time to finish it and this was left over until the 13th. That very often happens.

Q.—It might happen if there were business to do as to which the directors' minds were not in accord, but when a proposition has been made and acceded to, one sees no reason, at least I do not for my part, see any reason for the adjournment. The whole thing was completed as far as it could be completed? A.—As far as we were concerned, but Mr. Wilson and myself were two of the Great West and only two. We certainly should not have done it without consulting Mr. Scholfield.

Q.—But you were not meeting as directors of the Great West on the 7th, you were meeting as directors of the Union Trust? A.—I know.

Q.—And the Union Trust was making a proposal; whether the Great West liked it or not, was a matter for them to deal with afterwards. The Union Trust was at that time crystalizing or about to crystallize its policy. There was no doubt about that, was there? A.—Well, I supposed there was no doubt. Mr. Wilson and I were agreed as far as we were concerned. Mr. McGillivray I imagine as well.

Q.—And you were there as directors of the Union Trust Company? A.—Yes.

Q.—And the Union Trust Company then was agreed? A.—Yes, so far as they were represented. How many were at that meeting, Mr. Shepley?

Q.—There are said to have been six, according to the minute, Stevenson, McGillivray, Davidson, Ross, Wilson and Foster. That is six. We went over that the other day. You do not suggest that there was any difference

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of opinion on the 7th of November, when this meeting was held with regard to what the policy of the Union Trust was to be? A.—Well, I don't think there was, so far as Mr. Wilson and Mr. McGillivray and myself were concerned.

Q.—Not so far as Mr. Stevenson was concerned? A.—No, but it may have been that we had very little time left after we had done the other business to discuss that on the 7th and that, therefore, it was adjourned to the 13th, and there is no use of me giving you what might have been; my only recollection is that the business was not settled and that the adjournment was made.

Q.—The minute says, "Some discussion was had with reference to the Great West Land Company and the position of the Union Trust Company in relation thereto. This matter was, however, left over to be taken up at the adjourned meeting?" A.—Yes.

Q.—Then, do you confirm what has been said this morning with reference to the custom in writing up the minutes? A.—Yes, practically. I take the heads of the minutes down as the transactions go on in the Board, in my own abbreviated hand. I am not a shorthand writer. Then, after the business had been concluded, if there was time, I sat down in my office and made an extended minute of the proceedings, dealing with each matter in succession, from the heads I had put down, and then as a rule I would call the typewriter and give her that in typewriting and then put both of them in the book and send it out to the clerk to have them copied.

Q.—It is a matter of detail, but perhaps details may be important. Did you dictate any further extension to the typewriter than you made yourself? A.—Well, yes, in this way; for instance I would say "Present." And then, in some cases, I remember I left that for a little book that I had by my side and I did not put it in my long-hand report. Or, if I would say "Pursuant to notice" I would say "etc." after that, in my note, because that was the formula, the meeting met and directors present. Then I would put the word "Minutes read." That would be amplified. That was the kind of amplification.

Q.—If you came to a resolution would that be in your own handwriting in full in its final form when you

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would call the stenographer in? A.—The resolutions would be written out in the Board as they were agreed upon and moved and seconded. Or if they were not very important there would be the digest of the resolution, the point, and then I would write out the resolution. For instance, if it were a salary resolution, the matter would be noted that on motion it was resolved that such and such an increase be made or the like of that. Then I would put that into the enlarged form afterward.

Q.—I do not know that I have quite made my meaning clear. When you sat down after the Board meeting, for the purpose of preparing the minutes of that meeting, if you recollected or indeed if you had a note of a particular piece of business brought about by the moving and seconding of a resolution and a vote, would you reduce that into its final form before calling in the stenographer? A.—Oh yes, that would be my rule. If the resolution were written out and moved and seconded by the persons in the directorate, that would be pinned on its own little file of resolutions marked "A," "B," "C." and that would be noted in my minutes and I would take it directly from the resolution. Otherwise I would amplify it myself.

Q.—As you told me the other day, you do not at all say that there were always written resolutions? A.—Oh no; certainly not.

Q.—When there was not a written resolution, but a motion had been allowed to be made without being put into writing, and been voted upon and dealt with? A.—Then I took the substance of that resolution at the time and I put it into this amplified form after.

Q.—You would amplify that in your own handwriting before calling in the stenographer? A.—Yes, that was my rule.

Q.—And the stenographer's work would not include any amplification in respect of any important matter? A.—Not for herself, no.

Q.—Nor as you gave it to her? A.—No, except as I have explained.

Q.—And that would be in matters of detail and not in important matters like substantive resolutions? A.—Yes.

Q.—Then you would put the papers so prepared in the minute book and hand it out to be copied? A.—In the

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minute book or hand it to the clerk, one or the other.

Q.—Do you confirm what has been said as to the ultimate destruction of the original sources of the minutes?

A.—That is correct. They were kept, as a rule, until they were carefully compared by myself, or until they had been passed at the Board and the minutes had been submitted and either corrected or certified to without correction, and then, of course, there was no further use for them. In all these cases, of course, the final arbitrator of each minute was the Board at the time it was read to them afterward.

Q.—And we have already observed, so far as the minutes are concerned, the condition of these minutes in that respect? A.—Yes, and if you will take the shareholders' meetings of the Board you will find that even at this date there are minutes there which have missed being signed by the chairman. I suppose that takes place in all, even well constituted Boards.

Q.—Then I want to put upon the record so that it may be complete the business that was transacted at these meetings. On the 7th there was the matter of the Regina office? A.—Yes.

Q.—That is with regard to the appointment of a manager there? A.—Yes.

Q.—Then there was the matter proper accommodation, with a view to moving in the Standard Bank? A.—Yes.

Q.—Then there was the matter of Mr. George Harcourt's salary? A.—Yes.

Q.—Then there was the matter of the Kamloops Lumber Company? A.—Is that the 7th you are dealing with?

Q.—Yes. "Considerable discussion was had with reference to the Kamloops Lumber Company and explanations as to the condition of this" or "these" "were made by Mr. Stevenson. It was understood that Mr. Stevenson was to present a written statement embodying his views with reference to the condition and prospects of these companies?" A.—Which was done afterwards.

Q.—Then comes a minute as to the Land Company with which we are immediately concerned and then the meeting adjourned until Monday, 13th, at half-past two o'clock? A.—Yes, if you will allow me to say it. I think that bears out my testimony with reference to the adjournment of the meeting. There were a consider-

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able number of important subjects discussed and this only appears to have come up at the very last, which would be an additional reason for putting it over until another meeting.

Q.—You say that, perhaps, these discussions had taken up so much time that you were hurried at the end? A.—I know that the Kamloops one did, because we were at that time discussing the Kamloops matter.

Q.—Then, coming to the adjourned meeting of the 13th, have you ascertained whether or not any entries were sent out for that? A.—I did not find any copied.

Q.—Did you ascertain that none were sent or is your mind just left uncertain as to that? A.—I should say that as the meeting was held on the 7th and adjourned to the 13th that no notices, probably, were sent out, but that those who were in town were kept informed by telephone close up to the day, so that they would not forget the meeting. That very often happened, I know.

Q.—Then you are inclined to think as the result partly of your examination into the question and partly as a matter of memory, that notices were not sent? A.—I should think more as a matter of memory. I would not like to conclude that no notices had been sent because I did not find the copies of them, because I find that these notices, as a rule, were not copied.

Q.—At all events it is partly a matter of recollection, and perhaps mostly a matter of recollection? A.—Mostly a matter of recollection.

Q.—You would not think it necessary to send out a fresh notice for an adjourned meeting? A.—Not if the principal members were all within call, and Mr. Stevenson would be here, Mr. McGillivray was here and the other members were members in the city who could be reached by 'phone. I think I very often gave instructions to the clerk to 'phone up these men the day before or the morning before, so as to notify them of the meeting again.

Q.—Then I have already gone with you very fully into the question of what took place on the 13th. I wish to complete the record by showing what other business was transacted at that meeting. The general manager reported with respect to that question of accommodation? A.—Yes, I have a very distinct recollection

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of that because it was a matter which was urgent and had been very much delayed and just about that time I was very anxious to push these people forward and get into the new quarters as soon as possible.

Q.—You had also a report from the architects upon the same or a cognate subject? A.—A cognate subject, as to what arrangement could be made with the old quarters to fit them for a banking company.

Q.—The architects' report is, "that the room now occupied by the Union Trust Company, with the improvements that could be made, would be well adapted for a banking company," and the Manager was authorized to communicate with the Standard Banking Company? A.—And rough plans were given by the architect at that time, showing the changes that could be made to adapt it to a banking institution.

Q.—Then would you say whether any notice was given for the meeting of the 28th November? A.—I found no copied notice. The same remark would apply to that, that applies to the preceding.

Q.—It is a little different. That is not an adjourned meeting? A.—No.

Q.—And notices would be necessary for that? A.—Yes, and I have not the least doubt but that that notice was given. But I find no copies.

Q.—You do not find any copies of notices in respect of that meeting? A.—No.

Q.—You have particular recollection about it? A.—About the meeting?

Q.—No, about the question of notices? A.—Well, it is always a rule to give notice one way or the other, and I am sure notice was given. There is a corroboration in that meeting of the 28th which you will come to a little later, probably.

Q.—What I am asking you just now is, have you a recollection at all of sending notices of that meeting, or are you speaking from the rule? A.—I am speaking from the rule and the care I have always taken to see that the directors were notified of every meeting.

Q.—Before passing on from that meeting, you, of course, have heard since you were last in the witness box what, for instance, Colonel Davidson, has to say? A.—Yes, and I would like to allude to that, if I may.

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Q.—I was going to open the door for you doing that by asking you if what he has said in any way shakes your recollection as to the full discussion that was held of the one topic, the release of the bonus stock? A.—Not in the least. It neither shakes my recollection nor my view with reference to the fact of the meeting having been held or of the subjects which were discussed. I am clear on both of those points.

Q.—I would like you to direct your attention rather to the question as I put it if you can answer it in that shape. Does it shake your impression at all with reference to the release of the bonus stock having been specifically discussed? A.—It does not.

Q.—You do not, I suppose, put it any more strongly than you did the other day? A.—No more strongly, but just as strongly.

Q.—Is that all you desire to say about Colonel Davidson's statement?

A.—No, I would like to call attention to this: Colonel Davidson was emphatic in saying that he did not discuss that with Mr. Stevenson outside of a regular Board meeting, or of a Board meeting. I think you pressed upon him a question, once or twice, to elicit whether or not that might not have been spoken of outside of a Board meeting. Colonel Davidson was explicit that that was at a Board meeting that that was discussed.

Q.—That what was discussed? Because he says he never heard any discussion about the thing I am asking about at all? A.—Well, I am taking the general transaction as to the changing of the mortgage.

Q.—Changing from stock to mortgage? A.—In my mind it is all one discussion. Colonel Davidson says he did not hear anything about the bonus stock, good, bad or indifferent, but my impression is that all went together, and my testimony must go in that direction; but the point is this, that Colonel Davidson said that he did not discuss that outside of a Board meeting. Now take the meetings previous to the 7th and the meetings after the 28th and I don't think you will find any mention at all made of any discussion of that reversal of the policy from the shareholding partnership to the complete mortgage. Now, if Colonel Davidson is certain in his mind that it must have been at a Board Meeting, then it must

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have been—it seems to me—at one of these Board meetings. The other point I wish to make is this, if you will allow me to make them both now.

Q.—I am going to let you make them both? A.—It would fit in so well though here.

Q.—So will this. There does not seem to be any doubt that there was a discussion with regard to it at the meeting of the 7th, so there is a Board meeting towards which Colonel Davidson's memory may be directed? A.—Yes, but the discussion there was so slight and was turned over to the adjourned meeting.

Q.—Now then the other point Mr. Foster? A.—The other point is this: it was as I gave in my testimony, the rule to have that attendance book signed before we went on with the business and it was done in nearly every case. But two things might happen; it might be signed by a part of the directors at the beginning and others coming in later might either sign it before they went out or they might not sign it until a day or a week or maybe not until the next meeting. A blank would be left and maybe a pencil mark or something like that and they would get their names in. But to argue that because the names were not put down in the book, there could, therefore, be no meeting, seems to me to go against the doctrine of possibilities entirely.

Q.—Have you understood that anything was being argued at all? We are just trying to get at the facts you know? A.—I cannot help but see the conclusions that are absolutely come to from the evidence given in that way. Any person outside simply comes to this conclusion, "Ah, there was no meeting; therefore there was a concocted meeting."

Q.—You spoke of an argument. I was venturing to criticise your use of the word argue or argument? A.—Well, call it by any other name that suits you better.

Q.—At all events what you say is that you do not think that the fact that there are no signatures in the Attendance Book is conclusive that there was no meeting? A.—No, I have a fair impression of those meetings. They were hurried meetings, they were called and in the hurry of Mr. Stevenson's going away and the press of business it might very well happen that the little book was never brought in evidence at all, and that is

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what really did take place to my mind. I am letting everyone else have his impression just the same.

Q.—Then did I put it fairly to you when I said that your point is that the absence of the signatures is not conclusive that there was no meeting? A.—That is the way I put it. Then, another point, if you will allow me, is this; at the meeting of the 28th it is stated that a call for the shareholders was authorized, is it not?

Q.—Yes? A.—Now, you have in your own hands the call for the General Meeting of the 11th as it is stated there in the 28th?

Q.—Yes? A.—And that was issued on the 29th, which goes to show to my mind that immediately after that meeting, that is on the next morning, the call was issued, and we know that the call was received and that the meeting was convened on that call and for the business which was mentioned in the call. The directors must authorize a call for a shareholders' meeting or it cannot be held.

Q.—At the meeting of the 7th and at the meeting of the 13th there were six directors present, as the minutes say? A.—Yes.

Q.—Of those six three were the persons interested? A.—Very well.

Q.—Will you accept that? A.—Yes.

Q.—Three were the persons who had a personal interest in getting the bonus stock given up? A.—They had a personal interest in the bonus stock.

Q.—In having it released to them? A.—Yes.

Q.—The other three have all stated that they were not aware that that is what the minute recorded. You are aware of that? A.—I know that.

Q.—At the meeting of the 28th November there were only two present, Mr. Ross and Mr. Davidson, in addition to the three interested in the way I have said. That is right, is it not? A.—Yes, if the minutes say so, that is right.

Q.—There those interested were in the majority? A.—They were.

Q.—And you have heard both Mr. Ross and Mr. Davidson's statement with regard to what they understood? A.—I have, and at that meeting Mr. Stevenson could not be present, because he had gone to Europe.

Q.—He was not in the country? A.—Everything though with reference to the meeting of the 28th would depend on the business done and the

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conclusion come to in the meeting of the 13th, because the meeting of the 28th was simply to carry out what had been determined on the 13th.

Q.—No doubt. Then I want this original minute book of the Union Trust Company marked as an exhibit. It need not be retained, but I want it marked as an exhibit, so that we may have it when the time comes for it. (Exhibit 553.) This is a matter I would like to have you explain to us, Mr. Foster. It is said that these words are in your handwriting, "Directors' meeting, December 26th, 1905?" A.—I have no doubt that is my writing.

Q.—Do you remember writing it there? A.—Yes, I remember writing it there, and I should have signed it. I was present at the meeting.

Q.—Then it was your mind that left the blank? A.—Exactly. No one else. No one else could have known, I suppose, and I must have, if there was any design in it at all, I must have had the idea of leaving blank enough to get the signatures for the other two meetings of the directors, when I got them.

Q.—When did you write those words, "Directors' meeting, December 26th?" A.—Oh, I think on December 26th. The book I did not keep. The book was sent up to the directors' meeting at the time of the meeting, and just before the meeting, waiting for the directors to come in, I would write the heading. In this case (referring to another page). It was written by the clerk himself. If it was not written I would write it myself. I think you will find my own writing in some other cases. This is mine.

Q.—"July 19th" is your writing also? A.—Yes.

Q.—What suggestion do you make as to the reason why you did not write the dates of the other meetings? A.—Simply because in those two meetings I don't think this book was ever in evidence at all. We went right at the work and we stayed at it until we adjourned.

Q.—Do you think the book was there? A.—I am not certain at all that it was there.

Q.—This sometimes happened with respect to directors who had not signed the book and who were present, you put in a pencil memorandum? A.—Yes, or left a blank.

Q.—And that appears from the book itself from various places in the book? A.—Yes, it also appears from the

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book that the rule was general to sign immediately at each meeting.

Q.—On the subject of these letters, I see that in addition to the letter from the Doctor of the 3rd January, upon the subject of the Executive Committee, there are bearing the same date other letters relating to matters. I want you to verify those. You see the letter of the 3rd January, 1905, with respect to the Kamloops Lumber Company? A.—Yes.

Q.—And then you see another one with respect to the formation of the Independent Lumber Company? A.—Yes.

Q.—And another still directed to the Kamloops Lumber Company with respect to the same matter? A.—Yes.

Q.—Then I read those with your Honors' permission, and put the whole in as one Exhibit (Exhibit 552.) What was the occasion of the writing of these letters? A.—Are they all of the same date?

Q.—All of the same date? A.—Well, they all came to us from the Doctor and were acted upon by the Board.

Q.—I was rather concerned to know what the occasion was of these questions being taken up in this emphatic way and being presented to the Board? A.—That I don't know. That again originated with the Foresters themselves.

Q.—The one about the Kamloops Lumber Company is, of course, important. It is directed to the Union Trust Company, Toronto. (Reads this letter, part of Exhibit 552.) Before passing on to the next of these letters, does the reading of that bring to your mind at all the occasion which gave rise to it? A.—I think there was no single occasion that gave rise to it, but that it came gradually out of the circumstances of the case, the fact that Messrs. McCormack and Fowier were not putting up a share of the extraordinary expenses which it was not thought would have been incurred before, but which were incurred, and that consequently the Union Trust Company, through the Kamloops Lumber Company was bearing an unfair portion of the burden, and that gradually impressed itself upon the minds of the Kamloops Lumber Company, Mr. Stevenson especially, and led to that action.

Q.—Then you did, I suppose, proceed to take the matter up, you and

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the Executive Committee? A.—That I have no recollection of.

Q.—Was anything done? A.—Was it actually referred there to the Executive Committee?

Q.—He says, "I would suggest?" A.—That is simply a letter but what action was taken upon that letter.

Q.—I ask you if you recollect that any was taken? A.—No, I don't recollect.

Q.—Is it the fact that the suggestions made in this letter were not taken up by the Executive Committee? A.—I would not say that.

Q.—You do not recall any action? A.—I do not recall what action took place.

Q.—Then, on the same day, there is a letter to the Trust Company, and another to the Kamloops Lumber Company on the question of the formation of the Independent, the selling company. I read now the letter to the Trust Company (part of Exhibit 552.) That suggestion was followed up? A.—Yes.

Q.—And the company was formed? A.—The company was formed.

Q.—Then on the same day a letter to the directors of the Kamloops Company is signed both by the Doctor and Mr. Stevenson. (Reads this letter.) I put in those letters as one Exhibit (No. 552.) Then, there is a subject that I think we can be rather brief with. You carried on some of your operations in the Union Trust Company by means of money borrowed? A.—Yes.

Q.—Can you tell me in outline, first what moneys were borrowed for the purpose of enabling your operations to be carried on? A.—Well, that, as a mere matter of memory—

Q.—For instance take up the bank borrowing first? A.—We had an agreement, verbal or otherwise, with the Standard Bank by which we were entitled to an advance to a certain amount.

Q.—Do you remember the amount? A.—It ran up sometimes to \$100,000. Sometimes, probably, over. It depended a good deal upon the money that the Bank had at its disposal as to how much of an advance we had. Sometimes it was more, sometimes less.

Q.—You had a by-law upon the subject, did you not? A.—I think so.

Q.—Do you remember about when that by-law was passed? A.—It must have been very early in the history of the Union Trust Company.

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Q.—I have a date, the 25th February, 1902? A.—I dare say as early as that.

Q.—Do you remember the amount that you were authorized by that by-law to borrow from the Standard Bank? A.—I do not.

Q.—\$200,000? A.—Up to \$200,000. I think it would be, probably, up to that amount.

Q.—We will put in the by-laws by themselves, subsequently. I don't want to waste your time now. Do you remember that being dealt with in November, 1902? A.—I don't know what the date is.

Q.—I won't delay, we can verify that subsequently, but you will find that there was an authority there to increase the borrowing to \$400,000? A.—\$400,000 in November, 1902? If that appears.

Q.—Can you tell me what was the necessity that existed for this borrowing? A.—I think if that be the date and the amount, that that sum or a portion of it, probably the very large portion of it, was for investment in stocks.

Q.—You were anticipating your possession of money for investment by borrowing money to invest? A.—We were using our credit, yes.

Q.—Then do you remember any further borrowing? A.—That special case; then the general advance loan that we had with the Standard Bank of Toronto and a loan at the Traders' Bank are the only loans that I remember from the banks.

Q.—Then what were the other loans that you have spoken of? A.—The general advance from the Standard Bank of Toronto.

Q.—You are speaking of something in addition to the \$400,000? A.—Yes.

Q.—How much was it? A.—I explained that to you before. It ran from \$50,000 up to \$100,000 or around there.

Q.—Then you speak of something with the Traders' Bank? A.—Yes, there was a loan with the Traders' Bank which we made, it is a little complicated, but I think I can give you the gist of it.

Q.—In the first place did you receive money from the Traders Bank at all or just incur an obligation there? A.—No, no money passed. It was in connection with a loan on

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Crow's Nest Coal Company's shares. A loan was made and the Traders' Bank advanced it and we became responsible to the Traders' Bank for the amount of that loan at, I think, the same rate of interest and we held the stock as security and also the undertaking of the borrowers.

Q.—Do you remember what that amount was? A.—I think about two hundred and fifty or \$260,000.

Q.—I have it \$259,000? A.—That would be it.

Q.—Then you had not the money to lend and you practically borrowed the money from the Standard Bank to lend on the security of Crow's Nest coal? A.—Yes, the Traders' Bank.

Q.—The Traders' Bank I meant. What has become of that loan? A.—I think it has all been straightened out with a profit to the Union Trust Company.

Q.—I wanted to have that put as early in my inquiry as possible. It did not result in any ultimate loss? A.—In a gain to the Trust Company.

Q.—How do you mean, a gain? A.—Well, we had a certain interest in the stock as a bonus or a consideration, if you have a mind to call it such, which we realized upon at a good profit.

Q.—I want to make it plain to you, of course, Mr. Foster, that it is not in that sense that I am questioning the transaction. Who were the parties to the loan? A.—Drynan and Laidlaw. Or Laidlaw and Drynan.

Q.—We have heard that Mr. Laidlaw was the solicitor of the Company? A.—He was the solicitor of the company from its inception up to a certain point, and I think he was solicitor when this loan was initiated, but not when it was closed out.

Q.—You think that in the meantime that relationship had ceased? A.—I think so.

Q.—Was there any discussion in your Board with respect to the propriety of that loan? A.—Oh yes, a full discussion, as will appear on the minutes.

Q.—Then are those all the borrowed moneys that you have to tell us about? A.—Those, I think, exhaust the list of borrowings.

Q.—Did you borrow money in New York? A.—That was the \$400,000.

Q.—That was to take the place of part of the Standard Bank loan? A.—Yes.

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Q.—How did that come about, how was it you had to go to New York to get money? A.—Well, I said to you before that the purpose of this was to buy stocks. The amount was considerable and the interest was lower in New York than it was here and we arranged that loan through the Standard Bank here, they getting a part of it from the Traders and Importers in New York.

Q.—It relieved part of the obligation to the Standard Bank here, but not all of it? A.—No, and it was all done through the Standard Bank.

Q.—And a block of stocks carried in New York by the lending bank? A.—As security.

Q.—On margin? A.—Oh no. Bought outright.

Q.—You bought outright, but borrowed the money to buy? A.—Well, that was the loan of which you speak, yes.

Q.—Then what other means did you take to raise money? A.—I don't know of any other means.

Q.—Do you remember what you did in February, 1904? A.—What was that?

Q.—Calling up the unpaid stock? A.—Oh yes, we called up the stock that had been subscribed and was unpaid.

Q.—You called up part of the subscribed stock? A.—Yes.

Q.—There had been 50 per cent. only paid up to that time? A.—Yes.

Q.—And the balance was called in? A.—Yes.

Q.—That meant, of course, with the exception of the 50 shares we have heard about, getting more money from the Foresters? A.—Certainly. They subscribed for the stock.

Q.—And the result of that call was to get a million dollars? A.—Yes.

Q.—That was intended to increase the sphere of your operations? A.—The working power of the company.

Q.—You were then engaged in making large advances in connection with the North-West Lands? A.—What date was that?

Q.—February, 1904? A.—Yes, we were commencing on the payment of the North-West lands.

Q.—And you were about entering on the Kamloops transaction? A.—In 1904 about the same time, yes.

Q.—I suppose there was a discussion in your Board with respect to the policy of calling up this 50 per cent.? A.—Oh yes, undoubtedly.

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Q.—Was the Board a unit upon the subject? A.—Yes.

Q.—You were desirous of getting more money for the purpose of engaging in more transactions? A.—Enlarging our operations.

Q.—Then you increased your capital stock? A.—Yes, to \$2,500,000.

Q.—And you issued \$500,000 additional stock and you sold it to the Foresters at a premium of 10 per cent.? A.—Yes.

Q.—Getting \$550,000 by that means. What was the immediate necessity for that? A.—What was that date?

Q.—The 26th December last, just before the end of your year? A.—Well, the advisability of increasing the capital in order to cover our operations was discussed and was decided upon by the Board and it was increased. It was to cover our operations.

Q.—That is a very ghost-like fabric that you are presenting to me. Can not you tell me anything more about it? A.—I don't think I can. Isn't that substantial.

Q.—I don't think you are telling me much about the considerations that underlie this increase in the capital stock at all? A.—So far as I remember the consideration was this, that we required more money to cover our operations and we got that money by an increase of the capital stock.

Q.—“To cover your operations” put in ordinary language, does that mean to pay your debts? A.—It would be to pay our debts and carry on our operations.

Q.—How much were you behind when you issued this stock, you needed it all, didn't you? A.—I don't know, but I think we did. I don't think we would have called it in unless we had needed it.

Q.—And you needed it because your obligations were becoming peremptory? A.—Our obligations were maturing by our own action. Let me explain. With reference to our land operations in the North-West; all lands, as you know, are bought on terms of payment and run over from 6 to 11 payments. If we had kept up the policy of simply paying these payments on the lands and allowing them to run and paying the interest on it, we should not have needed so much money but there were two things that moved us; one was that a 6 per cent. interest might just as well be avoided and come to us as to go to the Land Companies. The other is that we did not want to have liabilities. That is, we had a certain amount of lands, and

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at the price that we would pay the cost would be a certain amount. Well, if we had only paid a part of those when we came up to the end of the year we would have been in the position of having heavy liabilities over us and not having a clear title to what we had invested for it. On those two accounts we came to the conclusion to clean out the land matters by absolute payments in full, keep the interest and have a clear title to the property, so that what we reported would be our own without liabilities hanging over it.

Q.—You are telling me how you had got behind by anticipating your payments on these lands? A.—We had determined to pay up our lands in full.

Q.—But you had paid— A.—We had paid in part, yes.

Q.—You had paid all that you ever have paid before you did this? A.—Up to the end of the year.

Q.—You had made your last payment to the C.P.R. on the 12th October, which was a small payment of \$33,000, and in August and September you had paid them \$200,000. That is what had happened in August, September and October? A.—Yes.

Q.—And with respect to the other people, Pope and Fowler, you had paid all that you have paid, you had paid them everything except the sum of \$13,000 odd as far back as October? A.—Yes.

Q.—Then what other circumstances were there which made it necessary to raise this money by an increase of stock? A.—I do not recollect anything other than that, to cover our obligations entirely if possible, and have a clean sheet.

(Adjourned to two o'clock.)

AFTERNOON SESSION.

Resumed at 2 p.m., October 9th, 1906.

Examination of HON. GEORGE E. FOSTER continued:

MR. SHEPLEY: This is the annual report to the end of 1905 of the Union Trust Company? A.—Yes.

Q.—That shows as a liability the whole capital stock of \$2,500,000. That includes of course the issue of the 26th December, 1905? A.—Yes.

Q.—If that \$500,000 of stock had not been issued, if you had not obtained the premium upon it your li-

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bilities of course would have largely exceeded your assets according to the statement? A.—By that money.

Q.—The balance of profit and loss brought about by the change made on the 26th December was \$8,955 to the good? A.—Yes.

Q.—In other words, is this a fair way to put it, there would have been a liability disclosed to the public of practically half a million in excess of assets instead of it being a liability upon capital stock? A.—That would have been so.

Statement of the 31st December, 1905, of the Union Trust Company marked as Exhibit 554.

Q.—You owed the bank even with that \$210,875? A.—As shown there.

Q.—The bank advances, over-drafts and accrued interest amounts to \$210,875? A.—Yes.

Q.—The rate of interest upon these advances made by the Standard Bank from time to time varied? A.—Varied according to the currency rate.

Q.—According to the market rate for call loans? A.—Well, we always got a good rate from the Standard Bank.

Q.—And I see you sometimes paid as high as 6 per cent.? A.—Yes, but for very short periods; we paid down as low as $4\frac{1}{2}$ and up as high as 6.

Q.—I think you at one time had it down as low as 4? A.—Yes, from New York we had it four.

Q.—I see a letter on the 6th April, 1904, which I take it relates to the transaction you speak of in New York, a letter from Mr. Denison, the General Manager of the Standard Bank to you, the 6th April, 1904; "We enclose copy of loan bond upon stock held in New York and have credited our agent at Bay Street on your account \$150,000 for the new loan made in New York. We beg to acknowledge receipt of your cheques for \$150,000 to retire the old loan, \$739.73 interest upon old loan, \$40.79 in payment of insurance and telegrams re sending scrip to New York"—that is in connection with the alteration that was made? A.—Yes.

Q.—This particular block of stock was held in New York, and the money was borrowed there at a lower rate of interest you say? A.—Yes, that is at what date?

Q.—6th April, 1904? A.—From that I think the loan is from the Standard Bank entirely.

Q.—He says, "We have credited our agent at Bay Street on your account \$150,000 for the new loan made

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in New York?" A.—Yes, made by the Standard Bank itself.

Q.—That was at that date being carried by the Standard Bank? A.—Yes, and from that time on we only had transactions with the Standard Bank. If it got money from New York that was its own business.

Q.—Accompanying that is a copy of what appears to be a loan bond: "The undersigned hereby acknowledge to have received from the Standard Bank of Canada as an advance the sum of \$150,000 which bears interest at the rate of $3\frac{1}{2}$ per cent. per annum from the 5th April, 1904, and is re-payable as follows: namely on call and in New York funds." Then follow the stocks: 1,020 shares Twin City Rapid Transit; 800 shares Missouri Pacific; 500 shares Minneapolis, St. Paul & Sault Ste. Marie; 700 shares Atcherson, Topeka & Santa Fe; 200 shares Minneapolis, St. Paul & Sault Ste. Marie—do you know what those are intended to indicate, those asterisks opposite the 500 and the 200? A.—That is meant to go against my cheque of there being 700 Minneapolis & St. Paul, they are put in two there.

Q.—That is just to indicate they should go together? A.—Yes.

Q.—I see in the margin of this same loan bond a note by yourself, "Please add \$30,000 to this amount, making it \$180,000 in all, the \$30,000 to bear interest?" A.—At $3\frac{1}{2}$ per cent.

Q.—Interest from a certain date? A.—From April 6th.

Q.—At $3\frac{1}{2}$ per cent? A.—We are still better off, we got it at $3\frac{1}{2}$.

Q.—The face of this loan bond is $3\frac{1}{2}$? A.—Yes. The limits might be corrected, they were $3\frac{1}{2}$ and 6.

Q.—I would rather not put that by way of correction to the other, the domestic loans were from 4 to 6? A.—Yes.

Q.—The loan in New York? A.—From $3\frac{1}{2}$ up.

Q.—To 6? A.—I do not know that we ever paid 6.

Q.—But that was the limit? A.—Yes, $3\frac{1}{2}$ was the lowest limit.

Q.—There is an earlier letter which I think I perhaps should have read first, the letter of the 30th March, 1904, which advises you of the arrangement, "I beg to acknowledge receipt of yours of the 30th and as instructed therein we have arranged for a loan with the Importers and Traders' National Bank of \$150,000 on the security of the stocks mentioned which we have sent to New York

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to be held as collateral to the loan." I will put in that bundle because it relates to these bank loans and I do not want to separate it. There is a good deal that is not very material. (Bundle of papers referred to marked as Exhibit 555.)

Q.—Does this compilation which I show you make itself recognizable to you? A.—Yes, I think that is taken from the book of the last December, 1905, as the securities and stocks we then held. As to their prices I have nothing to say, I have no doubt that can be ascertained.

Q.—What Mr. Cross tells me is he ascertained by inquiry from one of the most substantial firms of brokers in Toronto what the market value was on that date? A.—On the 31st December.

Q.—I have no doubt that was done? A.—Yes, I dare say that is correct.

Q.—That shows of listed securities par value \$400,000 and an actual value of \$329,500? A.—On that date.

Q.—Would that accord generally with your recollection? A.—I have no doubt that is true; there may be some little difference of opinion as to the values attached, but that is a mere value of record. The quotations of that day would settle that.

Q.—You see at the bottom a figure which is taken from the book as to what these had cost, it is called book value; the listed securities are Baltimore & Ohio 200 shares; Missouri Pacific 1,100 shares; Norfolk & Western 200; Erie First Preference 600; Erie Second Preference 400; Chicago, Milwaukee & St. Paul 200; St. Louis & San Francisco Seconds 1,200; Southern Pacific 100. Then the unlisted securities are Cripple Creek common 50 shares, par value \$5,000; Cripple Creek Preferred 60 shares, par value \$6,000, and bonds of Steel Foundry—what steel foundry? A.—The American Steel Foundries.

Q.—\$7,000, making a total of \$18,000. So that taking the listed and unlisted and assuming the par value of the unlisted as being its real value and the value that Mr. Cross has ascertained for the listed, you have a total value on the 31st December of \$347,500—you observe that? A.—Yes.

Q.—As against a book value for cost of \$449,109.68? A.—Yes.

Statement of stocks and securities marked as Exhibit 556.

Q.—On the first November, 1902 I have the minutes of a shareholders' meeting at which a by-law was pass-

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ed on the 6th October by the directors, was sanctioned, approved and confirmed, being by-law number 22, and that is a by-law reciting that it is expedient and necessary to confirm the action of the directors of the company in regard to overdrafts at the bank and to loans there made, and to provide for future loans to the extent of \$200,000 in addition to the \$200,000 heretofore authorized by by-law, confirmed 25th February, 1902"—you see that refers to the two by-laws I spoke of? A.—Yes.

Q.—Then it is enacted as a by-law that the directors are authorized to borrow money from time to time from one of the chartered banks in Canada, and so on. The fourth paragraph of the by-law is: "All loans heretofore made by the directors for and on behalf of the company from the Standard Bank of Canada and overdrafts made by the directors in the said bank not exceeding in all the sum of \$400,000 are hereby ratified and confirmed"—do you know what the overdraft was at the time—probably not from memory? A.—No.

By-law 22 marked as Exhibit 557.

Q.—Then by-law calling up the \$50 per share on the capital stock of the company. Meeting of shareholders February 23rd, 1904, by-law number 28, then sanctioned by the shareholders: "That a further and final call of \$50 per share on the capital stock of the company be made," and then follow the instalments in which it is to be paid, and that by-law is approved, ratified, sanctioned and finally passed at that meeting.

By-law number 28 referred to marked as Exhibit 558.

Q.—I find the very next page the appointment of Mr. Wilson as solicitor? A.—Oh? What date?

Q.—8th February, 1904. The date of the by-law authorizing the borrowing from the Traders' Bank in respect of that transaction is 3rd November, 1902? A.—Yes.

By-law appointing Mr. Wilson solicitor filed as Exhibit 559.

Q.—Then I put in in separate form for this purpose, though it is already as part of a larger body, the by-law number 34, to increase the capital stock by \$500,000, which was passed by the directors 26th December, 1905 and that was ratified by the shareholders at a special meeting held on the same day, 26th December, 1905.

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It recites that it is considered requisite for the due carrying out of the undertakings of the company that the capital stock of the company shall be increased from two million dollars to two million five hundred thousand dollars. It was the directors I suppose who decided upon issuing it at a premium? A.—Yes. The first had been issued at a premium and this took the same line.

Q.—All the stocks, the two and a half millions had been issued at a premium of ten per cent? A.—Yes.

Minute referred to of 26th December, 1905, filed as Exhibit 560.

Q.—I ask you to go back with me to about the date when you entered into your transaction with regard to these Canadian Pacific lands with Mr. Fowler and Mr. Pope and with your friends upon the syndicate, Mr. McGillivray and Mr. Wilson, do you remember about that time a matter of some limits in the Province of Quebec being offered to the company—I think you told me the other day that you did? A.—Yes

Q.—Do you remember in connection with that any discussion or correspondence with regard to your position in a transaction of that sort as a servant of the company? A.—I do not.

Q.—You do not remember any? A.—No.

Q.—Do you remember when you laid that transaction before the Board whether it was proposed you should receive a commission in respect of that? A.—In respect of those lands?

Q.—Yes? A.—Not at all, no question of any commission on that transaction was ever—

Q.—Was ever raised or suggested? A.—Ever raised or suggested.

Q.—See if I can bring it to your recollection, do you remember that that property was reported upon? A.—Yes. I do not know whether it was formally reported on or not, but anyway it was so far reported upon that those who were engaged in it from that side thought the proposition was not a sufficiently good one to be taken up by them, and so it dropped.

Q.—Did you receive a letter from Mr. Stevenson in connection with that? A.—Not that I know of.

Q.—You do not remember any? A.—No.

Q.—Were you aware that Mr. Stevenson communicated the circum-

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stance to the Chancellor, Sir John Boyd? A.—With reference to this?

Q.—Yes? A.—No.

Q.—I do not want to have you misled at all, with reference to any similar transaction in which it was suggested you should have a commission? A.—I think I see what you are after now, but this was the wrong piece.

Q.—I have commenced at the wrong end? A.—No, you have commenced at the wrong subject, in other words you are barking up the wrong tree; there is a letter I think with reference to the question of commission. I think that in talking with Mr. Stevenson I brought up the question as to whether if I brought lands to the Union Trust Company for their purchase it would be a fair thing to allow me a commission. In point of fact my salary was not a large one, and I brought it to his attention just as a question to be discussed, and we did discuss it, and Mr. Stevenson and I after discussing it came to the conclusion that it would not be a proper thing to do.

Q.—You reached common ground upon the subject? A.—Certainly, and besides that the matter was brought to the Board of the Union Trust Company, and then and there the decision was made that for none of this property that came in, even though they came in through me or through any other was there to be any commission paid.

Q.—Is that in the shape of a formal minute? A.—I do not know, I imagine not, but I remember that circumstance. What I mean to say is that there was no proposition on my part to buy and charge a commission underhanded, but as a matter of business I put it before Mr. Stevenson and it went ultimately before the Board, and that was the decision just the same as in another case the question was raised as to whether in any case loans should be granted individually to directors, and it was decided not to do it in any case.

Q.—You do not recollect having received a letter from Mr. Stevenson protesting against the idea that you should— A.—He may have written such a letter, I would not say he did not.

Q.—This is the way it is put in a letter which he wrote to the chancellor which I have, and I want to see whether you will disagree with

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that. This is a letter of the 23rd May, 1903, and it is with regard to a certain property. He says: "I received yesterday morning a copy of Mr. Henry's report dated May 18th, and upon considering it wired Mr. Foster I was opposed to the purchase"—do you remember that? A.—Yes, that is a piece of North-West land.

Q.—You assent to it probably without any active recollection upon the subject that he did wire you the proposition was not satisfactory? A.—Yes.

Q.—Do you remember it or just assent to it? A.—I remember we came to the conclusion it was unsatisfactory and would not be taken.

Q.—Then he says: "I have given Mr. Foster in a letter written to-day my reasons"—reasons apparently for opposing the purchase—"and have challenged his attention to a matter that I would like you to think about, namely, the propriety, or it seems to me the impropriety, of our Manager or any member of the Board profiting by way of commission or otherwise upon any transaction which he has to act officially upon?" A.—Yes.

Q.—"If my views with reference to the matter are erroneous I would like to be advised. They are stated very mildly in the letter to Mr. Foster referred to, a copy of which I enclose you. I will be pleased to hear your views at your convenience"—do you remember that now? A.—I would not have remembered that a letter was written if you had not read the letter; I have no doubt it was.

Q.—You have no doubt a letter was written to you upon the subject? A.—Yes.

Q.—Challenging your attention upon the propriety or impropriety of a commission in transactions of that sort? A.—Yes, either by a manager or any member of the Board.

Q.—Did you give your hearty adherence to the propriety of that sort of thing being left undone? A.—Most certainly.

Q.—You recognize then fully the dual position that we were speaking about the other day? A.—I put the question frankly, and it was, as I have told you, that as my salary was a small salary whether or not it would be admissible that if I got a purchase of lands from the North-West, for instance, whether it would be admissible that I should have a small commission upon it. I did not de-

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cide the case myself, I did not press the case, I simply left it and it was discussed by the Board—I imagine in that letter to Sir John Boyd—and we came of course to the conclusion after thinking it over that it would be an inadmissible thing and it was never done.

Q.—There were two matters as to which the Board declared a policy, one was with respect to its directors or its manager getting commissions in respect of transactions with the Company and the other was in respect of their receiving financial assistance from the company in their undertakings? A.—In the shape of loans to individual directors

Q.—Do you draw the line there? A.—Yes, that was all that was discussed.

Q.—You will say that was the limit of discussion? A.—Yes.

Q.—It was not conducted then upon broad principles but upon just merely the narrow single instance of an individual director wanting a loan? A.—Yes.

Q.—You say that is so? A.—Yes.

Q.—Were you yourself giving some attention to the matter as a question of business ethics, or were you just to let the others determine? A.—When we discussed the question I fully agreed in the matter with the other directors and I did not make any opposition to it or any kick

Q.—I do not suggest you made any opposition, I ask you if you were giving the matter your consideration from an ethical standpoint? A.—I considered the question as a director.

Q.—Can you answer the question as I put it, if you can I wish you would; did you give the matter your attention from an ethical standpoint? A.—I gave the matter my attention from the standpoint of a director in a company as to the propriety of that sort of thing.

Q.—That I think answers my question, that you did consider for yourself and formed an independent opinion as to the propriety of such a transaction? A.—The suggestion was a suggestion which probably was made to Mr. Stevenson in that case without very much thought and rather with a view to the other side of the transaction, but as soon as my attention was called to it and we discussed the matter I was thoroughly in accord with the general principle.

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Q.—Let me do you full justice, at that time you did make up your mind and without any residuum of doubt you made up your mind that it was improper that an agent of the company should be allowed a commission on a transaction which he brought to the company, that you have no doubt about? A.—An officer of the company.

Q.—And you have no doubt as to the impropriety, you fully concurred it was improper for an individual officer to borrow the company's funds? A.—Yes.

Q.—Do you think it loses its impropriety if two directors borrow instead of one, from an ethical standpoint again? A.—Individually?

Q.—Or the two of them as a partnership or syndicate? A.—I think the same remarks would apply to two as to one.

Q.—Do you think in pronouncing the policy they did they were intending to confine themselves to the case of an individual director and not intending to apply the principle to the case of two or three directors? A.—I think the principle applied to individual loans to directors through and through, and it made no difference whether two joined in getting the loan or three or one.

Q.—Then I think I misunderstood you when you said individual loans, I was thinking of that as a narrow— A.—My distinction is this between a loan to a director or a set of directors in their individual capacity, and a loan to a company in which directors may have stock; that is the distinction that I have in mind.

Q.—What ethical distinction do you draw there? A.—I think there is a difference between the two.

Q.—What difference? A.—You have a corporate entity in the one case which you may deal with different from what you can with an individual; it gives you a different class of security.

Q.—You think if three people, all of whom are directors of a company, form a company in which they are the sole shareholders that the same principle does not apply to borrow— A.—You are driving that I think to an extreme.

Q.—It is only a question of degree, is it not? A.—That makes a good deal of difference though sometimes.

Q.—Would you agree it is a question of degree, it is not a question of principle? A.—I think there is a different basis entirely in loaning

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to the individual on his personal security and in loaning to a company in which the individual happens to be a director, on the security of the corporation.

Q.—Even if the director substantially is the sole shareholder and the sole person interested? A.—That is a case I think for consideration in each individual instance that comes up.

Q.—How do you measure it by the quantum of the interest? A.—I do not think we will get any farther in the dialectical discussion. I have given you I think my answer, and I do not see any farther information you can get from me out of it if you put your question for an hour.

Q.—Do you mean to say you won't tell me whether or not you do measure the interest in order to arrive at a decision of the question of impropriety? A.—I have told you I hold there is a difference between these two such as I have described to you, but when you come to measure out the millionth part of an inch in which there is a difference that brings up a discussion that I do not think is worth while for me to indulge in.

Q.—I should have thought if there was only a millionth part of an inch there was not much difference, but you apparently think differently; you do not think we can usefully pursue that subject farther? A.—I do not think we can. I have as great a respect for sentiments and for names as most people, but I still think that every transaction when you get down to the essence of it needs to be judged by itself, in the matter of making investments—one thing to illustrate my meaning—one man says that a dividend bearing stock is the only kind of stock you ought to invest in; another man has an idea that non-dividend paying stock may in some instances be said to be better stock than dividend paying; I would not subscribe to the rule that everything ticketed as non-dividend paying stock would be a good investment, and per contra that everything you ticket with dividend would be a good investment. In every case I think you have to look to the potentiality of the security as to whether the investment is a good one or not, and we will have our different ideas on that if we argue it for a week.

Q.—I would like to prevail upon you to accompany me a little farther; supposing I am a director of the com-

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pany and I come to the company to borrow money and the company says, "We have a rule against your borrowing money," and supposing I go out and form a company, the other members of the company being people whom I qualify, substantially I own all the stock, there are three or four other shares outstanding in order to qualify; then I come back as a company and say, "Now, I am a company, and I want to borrow;" would you think the proposition had lost its impropriety by going through that form? A.—If you go through that form and you come to our company we give you an answer.

Q.—Will you give me an answer now? A.—No, I cannot, it is a case of supposition.

Q.—I am trying to get at a parallel — A.—I know, you are trying to get at a parallel between this and the Great Western, and it is not a parallel case.

Q.—You are travelling too fast? A.—One has to travel pretty fast with you.

Q.—I am not trying to draw that parallel; however, you do not answer that question? A.—No.

Q.—Would you apply the same reasoning to the other principle the Board laid down about commissions, that is that an individual director ought not to be able to get a commission, but he could form a company bring in lands to his company and have that company take commissions? A.—That would depend somewhat on the understanding he had with his company.

Q.—I am speaking about the principle that was laid down by your Board, would you think doing that would be a violation of the principle or not?

MR. NESBITT: Would not the question be left with the Board if it should come up?

MR. SHEPLEY: This question I want Mr. Foster to deal with now? A.—I would say that was a case of supposition as well, I do not see a parallel there.

Q.—I am not suggesting there is a parallel? A.—There is no use of us fighting about a question that does not exist.

Q.—I am certainly not fighting, but I am asking questions with a sincere desire to get your mind upon the subject? A.—I have given you all I can as to what my mind has to offer just now.

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Q.—When you three gentlemen immediately after this correspondence to which I have called your attention made your arrangements with Pope & Fowler and then approached the Union Trust Company with a view to having the transaction financed, did this rule that had been laid down by the Board cut any figure in the discussion? A.—I did not consider that rule applied to the transaction as it was put before the Board and I do not suppose the Board did as it was put before them.

Q.—You did not think so at all events? A.—Because I do not think the cases were parallel.

Q.—Did not you think it was being proposed that the company should advance this money practically by way of a loan to the syndicate? A. No, it was an advance to the company with all the undertakings of the company as a security, and there again we are on the old ground that we will not get any further on discussing it.

Q.—You in order to buy into the company had to make certain payments to Pope & Fowler, is not that right? A.—That we in order to buy into it, no.

Q.—Your syndicate did not, did not you understand you had undertaken an obligation to Pope & Fowler? A. —Yes, we had bought their option.

Q.—You understood you had to pay certain moneys? A.—We had to pay for the land according to the contract with them and the C.P.R. and our contract with them.

Q.—And you had to pay them the extra dollar an acre? A.—Certainly, whatever the price of the lands were we had to pay.

Q.—That you had to pay as you arranged it by way of a consideration for getting stock in the company? A.—That we had to pay for the 200,000 acres of land we bought.

Q.—And by way of getting interest in the company supposing you had not gone to the Union Trust at all but had financed it, you would have had to pay the Canadian Pacific and have had to pay Pope & Fowler the extra dollar? A.—Yes.

Q.—Then you would turn the lands into the company, the consideration being the land you had acquired in that way? A.—Yes.

Q.—You would have been paying the money then to acquire your inter-

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est in the company—you see that?
A.—We should have been paying to the C.P.R. and to Pope & Fowler the price that we agreed to pay for the lands in order that we might acquire a right to those lands and have a property which we could sell again and which we did sell again.

Q.—Which you could get into the company— A.—And sold to that company—

Q.—And which would be made the basis of your stockholding in the company? A.—Yes.

Q.—Did it occur to you that what you were doing was to practically borrow money from the Union Trust for the purpose of fulfilling that obligation? A.—We came to the Trust Company with a proposition for them to loan money upon the lands that we had bought on a value—

Q.—To be paid on the lands you had bought? A.—Wait a moment, on a value of \$4.25 per acre, on which value they held their security, and any increase in value caused by the amount of stock that was paid to Pope & Fowler as first consideration for their lands or any stock that was paid by the Great West Land Company for the advance in price, these were left entirely behind and outside of the securities, no money was advanced to us or any other person in order to enable us to get that stock, that is the syndicate did not borrow a single dollar from the Union Trust Company nor from the Foresters in reference to or to enable them to gain the stock which they held and which they distributed as according to that agreement.

Q.—I am afraid you have been reading Mr. Matthew Wilson's statement in the newspapers? A.—I acknowledge to have read it, and think it a very good statement, but I am not answering from that paper.

Q.—The money was to be borrowed at all events from the Union Trust Company? A.—What money?

Q.—The money with which you were going to pay Pope & Fowler and the C.P.R.? A.—The money with which we were going to pay the \$4.25 to Pope & Fowler and the C. P.R., but not the money which was to get for us the stock.

Q.—I do not care for the purpose of the proposition whether it was \$4.25 or \$5? A.—It makes a difference.

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Q.—You were borrowing money with which to discharge an obligation you had undertaken? A.—Yes.

Q.—And that does not seem to you to be within the principle of the rule that the directors laid down? A.—No, it did not seem to have been so considered by the directors.

Q.—I pass from that for a moment to a matter which followed shortly according to the testimony as we have it, and I want to ask you about that. Mr. Stevenson has said at page 2359: "I was here either to attend the Executive meeting, which I always endeavored to attend, or it may possibly have been a Board meeting of the Trust Company, and was called into Mr. Foster's office. Mr. Wilson, Mr. McGillivray and he were there. It was stated that there was a proposition involving an investment in some valuable Quebec timber, and a suggestion was made that I should join in taking over that proposition. I inquired what it was and it required several hundred thousand dollars of investment"—do you remember that occasion? A.—I remember Mr. Stevenson's testimony.

Q.—Do you remember the occasion of which he speaks? A.—I remember dimly the occasion.

Q.—His testimony did not refresh your recollection much? A.—Yes, it did. I probably would not have remembered it at all if it had not been for his testimony.

Q.—Then in the next column on the same page: "Q.—Let us see whether we have it correctly. The proposition was that McCormack and Irwin, who were men of substance would join with Fowler and finance 49 per cent. of the proposition? A.—Finance it by borrowing 49 per cent. from the Trust Company, giving their covenant for it secured by the interest they would acquire in the business."

"Q.—It was to be borrowed from the Union Trust Company? A.—Yes."

"Q.—49 per cent.? A.—Yes."

"Q.—And the 51 per cent. should be borrowed by you four gentlemen also from the Union Trust Company? A.—I would not say it only included us four. The suggestion was we four and perhaps others. I am not prepared to say whether it was limited to us four."

WITNESS: I remember it from that testimony. I would not have re-

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membered it without. I was not very keen on it as far as I was concerned.

Q.—At all events you do remember the discussion? A.—I remember some discussion.

Q.—It looks like a proposition involving the four directors borrowing, as you put it, individually, or as a syndicate directly from the Union Trust Company? A.—Yes.

Q.—That would be quite contrary to the principle that had been laid down? A.—I think it would. I think some one may have made a suggestion about it, but I do not think there was any persistence with reference to it.

Q.—This was really the transaction that brought about or was followed by the Kamloops deal? A.—It was followed by the Kamloops, but not at all on the same plan.

Q.—In which Irwin and McCormack were interested and in which the 49 and the 51 per cent. were the same? A.—Yes, one followed the other.

Q.—The Kamloops followed this? A.—Yes.

Q.—You cannot charge your memory with the discussion; your recollection is vague with regard to it? A.—Yes.

Q.—Were you beginning to be aware having regard to the matters that I have been putting before you, were you beginning then to be aware that your co-directors were, like yourself, if you like, not at all inclined to permit transactions in which directors were interested from being financed by the Trust Company? A.—I do not think we had any serious intention at all of going into it on that basis; I am sure I was not in a position to do it.

Q.—I was rather asking you whether you had become alive to the attitude of your co-directors? A.—I think I knew their views on it.

Q.—You remember about the Montague syndicate? A.—Yes.

Q.—I should have asked you this: can you tell me whether this transaction about the Quebec limits was the first time that Fowler and McCormack and Irwin were in transactions or were proposing transactions with you? A.—Yes, so far as I can remember; I am very clear about that.

Q.—Which of them was it that introduced the subject to you? A.—That I cannot say, but Irwin and Fowler and McCormack I think brought the proposition to me. Recollect this, that the manager of a Trust Company or Loan Company has

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an almost infinity of projects brought to him, and he is obliged to treat every one with some courtesy at least, to find out what his proposition is, and where he can find one which he thinks he may take to his directorate he turns down a dozen or twenty that cannot be taken up at all; but I am clear on that that the Quebec limit business was the first in which Fowler and McCormack and Irwin or any one of them came to me with a proposition.

Q.—Was that the first occasion upon which anybody, apart from the Northwest land matter, because it was after the Northwest land matter I think? A.—Which do you mean by the Northwest land matter, the Montague syndicate?

Q.—The Great West? A.—After.

Q.—The Great West Land Company was in 1903, the Kamloops in 1904 and the Quebec limits suggestion was in between somewhere? A.—The Kamloops was in the latter part of 1903 and the first part of 1904, was it not?

Q.—I think it commenced in February, 1904; however, I do not know that it is very material, they were stringing along there about that time? A.—I am sure we were making investigations in British Columbia on that Kamloops matter in the fall of 1903.

Q.—It may be quite so? A.—We had our men out there in November.

Q.—You are probably quite right about that, the closing of it and the beginning of the payment of the money was in February? A.—If I remember the Quebec matter took place in the summer preceding that, but what time I do not know; I know the snow was not on the ground.

Q.—Then at all events they were in the order I have stated; there was first the general suggestions as to which the Chancellor was consulted? A.—Yes, the dates would show that, I do not remember what that date was.

Q.—Then the Northwest Land matter, then the Quebec Timber Limits matter, and then the Kamloops matter—that was the order in which they came? A.—The Great West Land matter.

Q.—Then about the Montague syndicate, when was that? A.—That was the first of all; that was shortly after I came here and took charge.

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Q.—That perhaps was before you had had a discussion with Mr. Stevenson about the position of directors? A.—Quite so.

Q.—Perhaps you yourself had not formed very clear ideas upon the subject of propriety or impropriety of directors dealing with their companies? A.—I probably had my idea, but one's ideas are sharpened in proportion as he comes up against the actual making of loans and carrying on of business.

Q.—Your suggestion was the formation of the Montague Syndicate? A.—Have you not had that thoroughly explained by Dr. Oronhyatekha?

Q. I think so? A.—Why should I have to toil over it too?

Q.—Perhaps you differ from him in some respects? A.—I think he gave a very good statement of it.

Q.—Would you disagree with his statement? A.—I think his statement, as far as I remember it, was a fair statement of the matter.

Q.—It is my duty to call your attention to the things that have been said by others so that you may give your own account; if you say you are entirely satisfied with what the doctor said about it— A.—So far as I can remember his evidence about it his evidence was fair and straight about that.

Q.—And accurate? A.—Yes, but if there are any points you wish to ask I am willing to answer; I am willing to answer anything you wish to ask.

Q.—I do not know what points of difference there are in your mind, if there are any; may I say then that you accept that as accurate? —A. Yes, so far as I remember it, I do. If, of course, in discussion I give expression to anything else and it goes up against any point or seems to, we will explain that.

Q.—When the Quebec limit instance was up you heard some suggestion then that that was not proper? A.—What you have referred to—

Q.—Do you remember what the doctor says that he said if that was not proper then this other thing was not proper? A.—The syndicate business took place long before this.

Q.—He was in the syndicate, so were you? A.—I was, yes.

Q.—You remember that the time came when the Montague syndicate handed over? A.—Yes.

Q.—How did that come about, that is perhaps the shortest way to get at it? A.—That may be a complex

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question as to how it came about, but I suppose the controlling influence in bringing that about was the desire to get out of a proposition which involved this, the loaning by the holders of funds to themselves, and then the decision was reached by Dr. Oronhyatekha and Mr. McGillivray and Dr. Montague to go out of the whole business and give it to the Union Trust Company, these lands, at the cost of the lands plus the expense.

Q.—What about your own position? A.—My own position was different.

Q.—Did you say it was different from the beginning? A.—Yes.

Q.—What position did you take? A.—I maintained it all through, and I maintain it still; my position is this, I was not a member of the Foresters nor a member of their Council. I had no command over their funds, and I had a perfect right to go to the Foresters and borrow money on my own account or for any venture that I had, provided they thought the security was sufficient and advanced it, and I held then, as I hold yet, that so far as my part in that transaction was concerned, I had a perfect right to do as I had done, and I still hold to that.

Q.—You were, however, induced to yield? A.—I was induced against my consent to yield and I never made a written renunciation of my rights and in the bottom of my heart I think still I have a right to my equity in that transaction, whether I may ever get it or not is a different question, or whether I will push for it is a different question.

Q.—You never made a written renunciation? A.—No.

Q.—Did you make a verbal renunciation? A.—I made many a verbal protest of what I thought was the unfairness of the position in which I was placed. If a man goes into a transaction of that kind and gets certain equities, those equities become a part of his property and capital, and he uses them as such, and it puts a man in a very awkward position when you come to the last analysis of it, and it did not seem to me in my position as an outsider I was blameable in the least for borrowing from the Foresters, or any other body that would lend on the security I had to offer.

Q.—Again we get back to the primordial difference between the

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Foresters and the Trust Company, the Trust Company was composed substantially of Foresters' funds so far as they had any fund, and you were the agent of the Trust Company handling the funds, it comes back to the same proposition—you see that? A.—I see a difference beside what you have indicated.

Q. There is a difference? A.—I think that is a very essential difference.

Q.—I do not see it is? A.—If you admit it is essentially different.

Q.—It is not for me to admit or protest? A.—I am here to protest that there is an essential difference between those two.

Q.—That is one of the essential differences? A.—The essential difference is I had nothing to do with the body from which I borrowed; no possible method of influencing the loan of the money, and I had just as good a right to go there for a loan of a certain amount of money on security as I had to go to the Toronto General Trust Company and ask Mr. Langmuir for a loan, or any other company, and consequently I protested upon the unfair position in which I was placed.

Q.—You did not look upon yourself as an officer or servant? A.—Or a trustee of the Foresters in any way.

Q.—And that position is not at all influenced in your mind for reasons you have already given me, by the fact that the trust company, of which you were an officer, was a mere creature of the Foresters? A.—That may be, I am not talking about the Trust Company, I am talking about the Foresters.

Q.—Your position towards the Foresters you, you do not see there is any difference by reason of your being an agent of the Trust Company—that does not affect your position towards the Foresters? A.—Not at all, not as regards that transaction.

Q.—What I was immediately asking you about when we diverged a little, you had just said you made no written renunciation, and I just asked you if you made a verbal renunciation, and you have not told me that yet?

A.—When it came to the end, they were pressing very strongly to have that syndicate as it were dissolved and these lands go into the Union Trust Company and stated the difficulties of their position and

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that it was absolutely necessary in their opinion that that should be done from the necessities of their position I still protested, but I did not struggle.

Q.—Did you yield? A.—I yielded I suppose in a sort of a way which was not very graceful.

Q.—I am not so much concerned with the gracefulness or otherwise of it? A.—I thought you would be interested to know how I did it.

Q.—I want to know whether you did yield? A.—Well it was done.

Q.—With your assent? A.—Well, I should be inclined to doubt that I gave cordial assent to it.

Q.—With your unwilling consent? A.—Put it that way, let it go at that.

Q.—You accept that? A.—I accept that.

Q.—You consented but unwillingly? A.—Yes, as I almost always do I gave way out of good nature.

Q.—You consented unwillingly? A.—Yes.

Q.—Was it at the time at which the lands were finally turned over that you gave your unwilling consent? A.—There were two transactions, there was the turning over, there were three portions of land that were bought after the primary purchase and with reference to those portions of land which were first turned over before the completion of turning them all over with reference to that I gave my cordial consent, that I think took in about forty or fifty, may be sixty or seventy thousand acres of land. I said, all right, let that go, and I did give my cordial assent to that, and where I gave my most unwilling assent was in reference to the primal purchase of the forty-four thousand acres of land which took place in 1902.

Q.—And the date at which you gave your unwilling consent in respect of the forty-four thousand was the date at which they were turned over? A.—Yes, that was a very recent date.

Q.—I want you to identify these Montague lands, I have a schedule prepared here to which I ask your attention, is that group of four about the middle of the page what you speak of as the forty-four thousand acres? A.—That is the original purchase.

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Q.—The original Montague purchase consisted apparently of four items; the first was a purchase in 1902 at \$3.50 per acre from Gillespie of 19,883 acres? A.—Yes.

Q.—The next was also in 1902; it was purchased at various prices ranging from \$3.50, \$4, and \$4.50 from the C.P.R. and the Great North West Railway Company? A.—Yes.

Q.—The amount 10,479 acres. The next also purchased in 1902, was Manitoba—those were Manitoba government lands? A.—I do not know.

Q.—They were lands in Manitoba at all events? A.—No, I do not think so, they were lands in the North-West.

Q.—At all events that was the block 11,839 acres? A.—Yes.

Q.—And this small block 2,066 acres purchased in 1902, some at \$3.50, some at \$4.00 and \$4.50 from the Canadian Pacific and the Great North West; that makes altogether 44,267 acres, and that you speak of as the original purchase? A.—Yes. Where is Kirkella, is that in Manitoba? If the Kirkella branch running up through these lands is in Manitoba—I think it is in the North-West.

Q.—Mr. Ross says it is not in Manitoba? A.—Then none of those lands are in Manitoba.

Q.—Then I come to some other purchase, I want to ask you about; you know the Carrot River purchase, that seems to have been October 15th, 1903? A.—About that time.

Q.—That was bought from the Ontario, Manitoba and Western at a price of \$5.00 per acre, and the amount of it was 40,960 acres? A.—Yes, that is two solid townships, the Carrot River District.

Q.—This seems to be the contract between the Ontario, Manitoba and Western and the Union Trust Co.? A.—In trust.

Q.—Yes, I suppose so? A.—That is they were acting for the syndicate.

Q.—They were acting as trustees for the syndicate? A.—Yes.

Q.—For the Montague syndicate; we will look at the provisions of that for a moment before we go further; the date is 15th October, 1903, between the Ontario, Manitoba and Western, the vendors, and the Union Trust Company in trust, the purchasers of the second part.

Q.—It recites the title of the vendors to the 40,960 acres, it recites that

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the purchasers are desirous of purchasing, the price being five dollars per acre, amounting to \$204,800, out of which is to be paid the balance due the railway company. They agree to sell as follows: \$25,000 cash; \$15,000 on the 15th April, 1904; \$15,000 on the 15th October, 1904; and the balance, \$149,800, in four equal annual instalments of \$37,450 each; then there is to be interest upon the deferred payments. There is no declaration of trust upon the face of that by the Trust Company—I mean the persons for whom the trustees do not appear? A.—No.

Q.—But it is stated to be in trust? A.—Yes, and it was in trust.

—Contract between Ontario, Manitoba & Western and the Union Trust Company filed as exhibit 561.

Q.—That is the Carrot River Lands, the area of which was 40,960 acres? A.—Yes.

Q.—The next I find here is on the 30th June, 1903, purchase from John Aird of 65,280 acres, of which a certain acreage was at \$4.90 per acre, and certain other acreage at \$5.75 per acre, total price \$322,336—who was John Aird? A.—He is the manager of the Bank of Commerce in Winnipeg, and we purchased from him as trustee for the parties who sold.

Q.—Do you know who the parties were? A.—I do not know.

Q.—Did you know at the time? A.—No.

Q.—And you do not know now? A.—No, and I do not think they are disclosed in the documents. The contract if it were here might show, but I do not think so. Any way, we knew nobody but John Aird in the matter.

Q.—That is the only person you knew? A.—Yes.

Q.—We have the purchase of this, and was that also financed through the Union Trust Company? A.—That was also a purchase on behalf of the syndicate, the money to be advanced by the Foresters.

Q.—But I am asking you whether like the other the Union Trust Company took the lands by way of trust? A.—As trustee for the syndicate.

Q.—And let me see if I have the course right, that in respect of these lands I am asking you about was adopted and also in respect of the 40,960 acres the Foresters were advancing money to the syndicate? A.—Yes.

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Q.—They were to be secured by the mortgage we have heard about? A.—Yes.

Q.—The Foresters actually did what with the money, to whom did they give it? A.—The first advances were made I think to Dr. Montague himself who purchased the lands.

Q.—That is the old original purchase? A.—Yes.

Q.—In respect to these I am asking you about? A.—In respect to those the advance as I understand it was made by the Foresters, but as the Union Trust Company was trustee for the Montague syndicate the money was advanced to the trustee rather than the syndicate itself.

Q.—The Union Trust was entrusted with the moneys required by the syndicate, the Foresters handing it to them? A.—Simply as trustee, yes.

Q.—And the Union Trust was charged with the duty as trustee of discharging the obligation of the syndicate? A.—Paying over the prices as they were set out in the contract.

Q.—The Foresters adding sums as they advanced them from time to time to their mortgage security? A.—Yes, I suppose so.

Q.—That was the transaction as you understand it? A.—Yes.

Q.—Then there is a third matter. I see here on the 30th December, 1903, at a price of \$5.25 per acre, certain lands were purchased from Mr. Whitlaw? A.—The Swan River.

Q.—The Swan River lands, 9,920 acres? A.—Those are in the Province of Manitoba, north of Dauphin.

Q.—What is the nature of those lands? A.—How?

Q.—What are they? A.—They are farm lands.

Q.—Lands, as we have heard from another witness, which required considerable expenditure by way of drainage before they can be properly marketed? A.—I think some few of them do, but not the majority.

Q.—Have you been over them yourself? A.—No.

Q.—That is your impression? A.—There are some of them that would require drainage. As I understand it that drainage is being provided by the Manitoba Government in respect of that section of country and is now under way. I am not sure but what it is finished by this time.

Q.—That makes a total of these three purchases, the Ontario, Manitoba and Western, Aird, and Whitlaw, of 116,167, which, including

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taxes and interest up to the 31st December last, has cost \$606,481.57. We have this information that though it is 116,160 according to the contract actually there is 111,360? A.—The contracts are what?

Q.—116,160, but the actual measurement is 111,360? A.—I cannot say about that, but if that be so it is subject to adjustment. We in no case pay for more than what we get by the ultimate survey.

Q.—I have also this information that out of that 111,360 acres, 65,600 acres have been sold at an average price of \$7.66 per acre? A.—That I cannot tell you.

Q.—That is not within— A.—Not within my memory. If those sales had been made, the most of them have been made probably this summer.

Q.—They may have been within your memory but not to your knowledge? A.—I think they may have been made since I left.

Q.—There is still another lot here, and I want to ask you about them, to see if you know anything about it. You would, I imagine. There is the Kellett, Hedderly, the Smith & Logan, the Canadian North West Prairie Land Company and the Hudson Bay. Do you know about those? A.—I know very little about that, not being personally connected with those negotiations at all. They were bought in the summer of 1905 when I was away on my holidays, I think, the most of them—yes, it is June, June and others in September.

Q.—And July? A.—And July, but I have nothing to do with their purchases.

Q.—But did you understand that there were enough other lands to bring up the total acreage of these lands to 123,000 acres? A.—Yes, after they were finally selected.

Q.—123,336 is the actual acreage? A.—Yes.

Q.—I omitted to call your attention to this. This is the Whitlaw contract made with the Union Trust Company as trustee in the same way? A.—Yes, I suppose it is. Yes, that is my signature.

Q.—This is Henry Whitlaw of the city of Winnipeg, barrister-at-law. Did you understand who were the owners of these lands? A.—I do not know who the owners were or are.

Q.—You did not hear? A.—I do not know.

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Q.—Did you hear? Tell me what you heard. Tell me what you understood. A.—It would burden you if I told you all I heard.

Q.—No, I could carry that a great deal easier than I can carry some other things I have to carry. A.—I have simply this to say: That I cannot positively say that these lands belonged to anybody else than Mr. Whitlaw.

Q.—You see I am not asking you for a positive statement? A.—I cannot make any other statements.

Q.—Oh, yes? A.—What I swear to I must swear to.

MR. NESBITT: Do not give any hearsay.

WITNESS: Let the newspapers with their headlines put in their hearsay.

MR. SHEPLEY: I want to know what your understanding with the people you were dealing with was? A.—I understood I was dealing with Mr. Whitlaw, and Mr. Whitlaw only.

Q.—You understood there were some owners or interests he represented? A.—Yes, and I did not inquire who they were.

Q.—You were told; tell me what you heard? A.—I do not recollect being told who they were.

Q.—I did not ask you whether you recollected being told. I asked you if you recollected what you were told? A.—If I do not recollect being told, that answers the other question.

Q.—Will you say you do not recollect what you were given to understand as to the ownership of these lands? A.—I do not recollect as to who were the owners outside of the fact that Whitlaw had these in charge and I bought them from him. That is all I can tell you.

Q.—What was it you thought would burden me, if that is all you knew about it? A.—You wanted me to tell you all I heard.

Q.—I wanted you to give us the understanding you then had as to who were being represented by Whitlaw in the transaction? A.—You have my understanding of it.

Q.—What have I as your understanding? A.—That I paid Mr. Whitlaw believing he was the party in charge of the land, and I made no inquiries as to whom he represented.

Q.—What did you hear without making inquiries? A.—I do not recollect anything specially.

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Q.—What did you hear generally? A.—I do not recollect hearing anything generally.

Q.—Be good enough to direct your attention to what you said. What did you think would burden me? A.—You asked me to tell all I heard, and I said if I told you all I heard it would be a burden to you.

Q.—That is not the way I put the question? (Reporter's notes referred to and read.) I ask you, tell me what you heard, tell me what you understood with respect to the people behind Whitlaw. You said it would burden me? A.—I took it as a general question. If you will make the question special, I have only the answer I gave you before. You can drop that portion out by way of interpolation.

Q.—I am afraid you cannot get rid of anything that has been said. I want you to reflect for a moment and tell me what you were given to understand as to the ownership of these lands at the time you purchased? A.—I told you I did not recollect the ownership of the lands nor do I till this day.

Q.—So you have told me, but I want to know what you understood about it, what you were given to understand? A.—I do not think I can give you any other answer.

Q.—I think you can, Mr. Foster, if you try? A.—I do not think I have any right in my evidence to give you on my oath anything I am not sure of or that I have not a clear impression of, and at the present time I am giving you a fair answer when I give you the answer that I have already given.

Q.—You have, of course, certain names in your mind now? A.—Have I?

Q.—Have you? A.—I have not.

Q.—You have not any names in your mind? A.—No

Q.—Or in your memory now? A.—No. Are you sufficiently a mind reader to tell what I have in the back of my head?

Q.—You cannot break my patience down. I ought to have put it as a question. Have you in your mind— A.—I have no names in my mind or memory at the present time.

Q.—Have you in your mind names that you heard as connected with the transaction? A.—I have not anything. I have rummaged around my head and I cannot find anything there.

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Q.—You cannot recall the name of any person that you heard of as being interested in these lands? A.—I cannot recall the name of any person I heard of as having an interest in those lands, positively I cannot, and outside of that I cannot go.

Q.—Having an interest positively, or positively you cannot recall? A.—I cannot recall positively.

Q.—You cannot what? A.—I cannot recall any names positively.

Q.—You cannot recall any names positively? A.—No.

Q.—You do recall names, but not positively? A.—No, I cannot recall any names positively.

Q.—Do you recall names but not positively? A.—Let me tell you once for all what I can give you on my oath, that I did not know and do not know now who had interests in those lands, that I dealt with Mr. Whitlaw and him alone. If you question me here for a week you cannot get any other answer out of me on that question.

Q.—I won't waste a week on that just now. I will try and make it shorter? A.—It has been long enough, God knows.

Q.—Then we pass that for the time being and we come to the terms of the purchase. How much per acre was this? \$5.25 was it not? A.—Are those the Whitlaw lands?

Q.—Yes? A.—Yes, \$5.25 per acre.

Q.—The total purchase price was \$52,080; the Union Trust Company agreed to pay that as follows—(Reads document Exhibit 562.) That was the total purchase money provided for by the agreement. Then this is taken from the Union Trust Company's books of how some of these matters were dealt with during part of the time at all events. You see a credit there by I.O.F., \$12,800? A.—That is the first payment on the Whitlaw lands, is it?

Q.—No, that is on the Canadian Pacific apparently, because it was immediately paid the Canadian Pacific through the Merchants Bank. That was in June, 1903. You were not here then perhaps? A.—Are those the Aird lands?

Q.—I do not know what they are. I was going to ask you about those. Perhaps I should not trouble you about that if they turn out to be some of the other lands. June, 1903—Yes, those are apparently part of the Aird lands. At all events the Aird lands were purchased in June, 1903. The *modus operandi* seems to

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have been just as you have stated. The money was got down from the Foresters into the coffers of the Union Trust Company? A.—As trustee.

Q.—And then paid over? A.—Yes.

Q.—The next credit is on the 24th October? A.—If the Union Trust Company had not been trustee the monies would have been paid to Dr. Montague and paid by him to Aird.

Q.—The next entry is on the 24th October, by cash I.O.F., \$25,000? A.—Yes.

Q.—That was apparently money that had to be paid over to the Manitoba, Ontario and Western? A.—Yes.

Q.—That, apparently, was the \$25,000, the cash payment. The agreement being the 25th October, that was to be paid in cash? A.—That is the Manitoba and Western?

Q.—Yes? A.—Yes.

Q.—Then let us follow the transaction; that \$25,000 was supplied by the Foresters on the credit of the syndicate, and went into the Bank to the credit of the Union Trust Company? A.—Yes.

Q.—The Union Trust Company being trustee for the syndicate? A.—Yes, and that borrowed money then became the property of the syndicate.

Q.—That borrowed money, you say, then became the property of the syndicate in the hands of the Union Trust Company as trustee for the syndicate? A.—Yes.

Q.—The next cheque, I see, is to the Ontario, Manitoba and Western Land Company, \$20,000? A.—Yes.

Q.—And the next—will you explain that to me? A.—What is the next?

Q.—The next is cash to yourself?

A.—Yes, \$5,000, making up the whole payment of \$25,000, and that was on the Manitoba and North West Lands. I can explain that to you. The Manitoba and North Western Land Company held their lands to the syndicate at \$5 primarily, I think they wanted more than \$5; but at length they came down themselves to \$5, and we refused to pay them \$5, and the negotiations went on and at least as far as my memory goes—I have not looked this matter over, the correspondence or anything of that kind—as far as my memory goes the agent or manager of that company said that he did not wish to lower the price of his lands below what he held them at, namely \$5, but that he had an allowance of 25 cents per acre as his commission upon the sale

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of the lands, and if we would take them at the \$5 he would remit 12½ cents per acre, I think it was, making up on the amount of those lands \$5,000. That \$5,000 was in a separate cheque, put to the bank in my name, appears so on the Union Trust Company's books, and has passed the auditors and never been concealed, and ¼ of that was paid to each member of the syndicate. That explains that transaction.

Q.—That was that transaction? A.—Yes.

Q.—The Ontario, Manitoba and North Western Lands Company were holding their lands at \$5? A.—Yes.

Q.—And in the result they got less than \$25,000, the difference being allowed by them as a commission? A.—As a rebate, or commission, I believe you might call it—call it rebate or commission, we will not fight about words.

Q.—I suppose those cheques were made out under your instructions? A.—They were.

Q.—That, I think, is the cheque to the Ontario, Manitoba and North Western Land Company for \$20,000 that we have just been speaking about? A.—Yes.

Q.—And the date of that is the 2nd November, 1903? A.—Yes.

Q.—Then the other cheque is the 15th December, A.—\$5,000.

Q.—Signed by Mr. Davidson and yourself? A.—Yes.

Q.—Payable to the Standard Bank, the Hon. George E. Foster \$5,000 on account of commission? A.—On account of commission.

Q.—That was what was then called, said to be on account of commission? A.—Yes.

Q.—Mr. Nesbitt suggests that I should ask whose writing is that, "On account of commission?" A.—That is Mr. McWhinney's, the Assistant Manager. At the time I must have told him to put on that what it was for, and that was put on it.

MR. SHEPLEY: Then those two cheques I put in, the \$20,000 and the \$5,000 cheque. (Exhibit 563.)

Q.—Who was the agent in charge of that transaction for the vendors? A.—Mr. Bettes.

Q.—Did Mr. Pritchard have anything to do with that or not? A.—Never heard of Pritchard's name in connection with it, and I do not think he had anything at all to do with it. My communications were

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entirely, so far as I was concerned, with Sheriff Bettes.

MR. NESBITT: Q.—Sheriff Bettes? A.—He was Assistant up in North Ontario.

Q.—That is the Hon. Mr. Sifton's brother in law? A.—He is a square man.

MR. SHEPLEY: He used to be sheriff at Bracebridge? A.—Yes, or Orillia or somewhere there.

Q.—You say that you distributed that between the members of the syndicate? A.—Yes, ¼ to each, and I think I hold their receipts somewhere.

Q.—Then the next entry I find here is an entry by cash from the I.O.F. of \$12,400? A.—Yes.

Q.—That would come down in the same way? A.—Yes.

Q.—And that apparently, was to make the first cash payment on the Whitlaw purchase? A.—Yes.

Q.—Do you know what the first cash payment represented? \$1.25 per acre, did it not? A.—I do not know. That is the gross sum, is it not?

Q.—And that 9,920 acres, that would seem to be \$1.25 per acre? A.—I do not recollect what the per acre payment was.

Q.—I would like you to verify that, \$1,240—acreage 9,920, and adding a quarter of that figure to it, makes \$12,400? A.—It would be about that.

Q.—Who was the agent in connection with that transaction? A.—Now you have got to your man, Mr. Pritchard.

Q.—Mr. Pritchard was the agent? A.—He has caused you a lot of trouble, now he is here.

Q.—Is he here? A.—No; he is in that transaction and you have seen him in your mind's eye, I will warrant you.

Q.—That won't get us along very fast, Mr. Foster. He was the agent for the vendor in that transaction, do you say? A.—He was the agent, so far as I knew, and the transaction in that was exactly similar to the transaction in the preceding one. Payments were made in two cheques, one cheque came to me for the amount of the rebate or commission on account of the syndicate.

Q.—And the other cheque went to Whitlaw? A.—The other cheque went to Whitlaw.

Q.—I will take these two cheques and show them to you. There was a

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cheque of the 2nd February, 1904, made payable to the order of the Standard Bank, per draft on Winnipeg, Henry W. Whitlaw, \$9,920 on account of purchase of land, signed by Mr. Davidson and yourself. A.—That is right, and the \$2,480 makes up the payment \$12,400.

Q.—And the other one is \$2,480 payable to your order on account of purchase of Whitlaw lands, also signed by Davidson and yourself for the Union Trust Company? A.—Yes.

Q.—What did you do with that cheque? A.—That money remains with me for the syndicate, awaiting a final accounting between the members of the syndicate.

Q.—That cheque was deposited somewhere, I suppose? A.—Yes, to my credit.

Q.—In what bank? A.—Standard Bank, I imagine.

Q.—There is no bank stamped on the back of it. A.—Then I don't know, but it was paid February 6th, 1904, S. T. Bank—Standard Bank, is it not—the branch? That is the branch it was drawn on? A.—Yes. Well, it was paid.

Q.—It does not show where it went out of your hands and that I would like you to tell me, if you can? A.—Well, it went to my account and to my credit.

Q.—Where? A.—That I do not know.

Q.—Will you find that out for me? A.—I will try and find that out.

Q.—That, you say, is still in your possession; at all events you have not paid it out? A.—I have not distributed it, and do not propose to distribute it until the four members of the syndicate have their final accounting.

Q.—Final accounting in respect of what? A.—In respect of monies that belong to them and are to be distributed equally.

Q.—Monies that belong to them? A.—Yes.

Q.—I thought they turned over their venture to the Union Trust Company? A.—They did, but they did not intend to turn over their venture, nor did not turn over their venture on any other basis than the prime cost of the land and the interest and taxes and the expenses up to the time it was turned over. It was never expected the syndicate would take money out of their pockets and turn it over to the Union Trust.

Q.—What money had the syndicate in its own pocket? A.—It had \$10,-

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000 of its own money that it did not borrow from anybody and it is shown in the very same account in which you have shown this.

Q.—Where did that come from? A.—That came from the forfeit that accrued to them on account of a contractor to purchase making his deposit, failing to purchase, and, therefore, forfeiting the money to the syndicate.

Q.—There was a sum of \$10,000 was it, or \$9,000? A.—\$10,000.

Q.—It was \$10,000? A.—\$10,000 even.

Q.—Even money? A.—Yes.

Q.—Some persons had proposed to buy land from the syndicate? A.—Green and Theidan had made a contract to sell or buy—

Q.—Which? A.—I suppose they made a contract to purchase with the idea they could sell. However, the contract is there. You can find that.

Q.—Where is it? A.—I suppose the Foresters have it. However in the end they failed to pay for the land under the terms of the contract and we forfeited their \$10,000 deposit.

Q.—And what did you do with it? A.—We turned it into the credit of the syndicate fund.

Q.—What do you mean by that? A.—The trust fund which the Union Trust Company was administering, and you will find it in the ledger right ahead of Mr. Cross there.

MR. CROSS: I did not bring that ledger over.

WITNESS: Well, you have seen it, Mr. Cross.

MR. CROSS: I have seen it.

MR. SHEPLEY: Q.—Then we will have the ledger here in the morning, but in the meantime just tell me exactly what was done with that \$10,000. A.—\$2,000 of it was paid to Dr. Oronhyatekha.

Q.—Why was that paid to him? A.—As his share of future profits.

Q.—As his share of future profits? A.—His share of profits on the syndicate.

Q.—What profits? A.—Profits on the syndicate.

Q.—You mean his share of this forfeit? That is the specific thing you are thinking about? A.—That is the specific thing I am thinking about.

Q.—He was entitled to what proportion of the \$10,000? A.—He would be entitled to one-fourth of the profits, whatever they were, when the concern was wound up.

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Q.—Were you having a current account of expenditures that you did not unload on the trust company when you turned over the lands, or was this \$10,000 a thing by itself, which was not likely to be increased except by the addition of interest, and was not likely to be diminished by expenditures of any kind? A.—The \$10,000, as I tell you, came into the hands of the syndicate by virtue of a forfeit and was put into the general fund and was chequed out as I have told you.

Q.—When you say it was put into a general fund, into what bank account was it put? A.—Into the same fund that these monies from the Foresters' advances for these lands was put.

Q.—That is in the account of the syndicate in the Union Trust Company's books? A.—Yes, that is where it is.

Q.—Now, I begin to get information that assists. This being an account which I suppose was a trust account at that time, at all events— A.—The Union Trust Company were acting for the syndicate.

Q.—As trustees? A.—Yes.

Q.—And they were receiving and disbursing monies for the syndicate?

A.—And they received and disbursed monies at the order of the syndicate.

Q.—They received this \$10,000? A.—Yes.

Q.—What did they do with it? They paid \$2,000 to Dr. Oronhyatekha? A.—Yes.

Q.—What else? A.—\$7,000 went towards the payment of interest.

Q.—That is it was paid over to the Foresters in addition to the mortgage account? A.—As interest on the mortgage account.

Q.—The mortgage account with interest would have been that much more, if it had not been paid? A.—It would have been that much more if it had not been paid.

Q.—And the other \$1,000? A.—Part of it remained in the fund and went for taxes or whatever were the current expenses of administering the lands.

Q.—And all that was assumed by the Union Trust Company when it took over the lands? A.—All which?

Q.—All the taxes or current expenditure in connection with the property? A.—All the taxes and current expenditure in connection with the property was to have been assumed

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by the Union Trust Company, which to my mind seems just this; supposing there had never been any forfeit of \$10,000, then the Union Trust Company would have taken over these lands at the original price, plus interest, plus taxes, whereas \$10,000 was gotten by the syndicate as a forfeit and borrowed by no one. The \$7,000 that went to interest was \$7,000 paid, and for which the Union Trust Company has to give the syndicate its accounting. The syndicate never proposed to take \$7,000 of its own money and thereby pay a portion of the original cost, interest or taxation, because the Union Trust Company was to take them over with the original cost, at the original cost, plus all interest and all taxes that accrued, and if we had paid up all interest and paid up all taxes, up to the time the Union Trust Company took them over under our agreement, the Union Trust Company would have had to repay us all that we had paid on interest and taxes or principal, because their contract with us was just a clear simple contract to take them over at the price we paid in the first instance, plus all charges up to the time we would take them over.

Q.—Now that is a proper and useful explanation, but it does not exactly answer what was in my mind when I addressed my last question to you. You were saying the other \$1,000 was expended in taxes and current expenditures? A.—It went to pay what otherwise we would have been obliged to borrow from the Foresters, and decrease by that much the money which the Foresters would otherwise have had to advance.

Q.—You see you are going away ahead of what I was trying to get at. What I understand you to say is that, being in the trust fund, held by the Union Trust Company for the benefit of the syndicate, the Union Trust Company applied it in paying current expenses and taxes in respect of the property? A.—Yes.

Q.—That was a proper application of it at the time? A.—Yes.

Q.—Then, as I understand it, when the Union Trust Company took over, they took over adding the expenditure and taxes to which you had them put, and therefore made that—is that right? If it is not right I would like to know that it is wrong and why? A.—Yes, I see. Your position is that the Union Trust Company—

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Q.—I am not taking a position. I am trying to find out? A.—What you are getting at is; whether or not the Union Trust Company did not pay us back that amount?

Q.—Yes? A.—Well, they have not paid us back.

Q.—That is the situation, you have not been reimbursed back? A.—Not at all.

Q.—Coming back again to the \$2,480, that represents apparently 25 cents an acre on the property? A.—Yes.

Q.—And that you say you have held ever since? A.—I have held ever since.

Q.—You will perhaps be good enough by the time you get here tomorrow to tell me about the history of that cheque and perhaps to produce the bank account in which it appears—that is your own bank account? A.—Yes. You are not going to give me that cheque.

Q.—You may take a reference to it? A.—If you let me take the cheque I can look it up.

Q.—I have not the slightest objection to that? A.—I am sorry it cannot be cashed again.

Q.—Now you will probably be good enough to let us see the bank book with the deposit of that cheque? A.—I do not know that I have the bank book, but I will see whether or not the Standard Bank shows that as a deposit, and if it does not I will try and find out where it did go, but it came to me, and it went to nobody else. What I mean to say is that there was no sharing of that with anybody else.

MR. NESBITT: The ledger accounts since 1903, if Mr. Cross had taken the trouble to bring it here, would show every one of these trusts, would it not?

MR. SHEPLEY: No, I think your suggestion is not correct.

MR. NESBITT: He kept it.

WITNESS: I have certainly realized it, there is no doubt about that in the world. (Cheque for \$9,920 Exhibit 564.)

MR. SHEPLEY: Q.—Had you charge of the negotiations for the purchase of this property from Mr. Whitlaw? A.—In part.

Q.—With whom was your correspondence? A.—With Mr. Pritchard.

Q.—That is still in existence, of course? A.—I do not know.

Q.—Where would it be? A.—If it is in existence it would be in the Union Trust Company. As trustee they will have the papers.

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Q.—You believe it to be still in existence? A.—I would not say whether it was or not, but if it is in existence that is where it would be.

Q.—You never destroyed it? A.—I have no recollection of having destroyed it. There was nothing in it to destroy.

Q.—You would not destroy correspondence upon a business matter? A.—No, that ought to be somewhere.

Q.—You do not suggest that it has been destroyed? A.—I do not suggest it, no.

Q.—And it ought to be with the Union Trust Company, you think? A.—Yes.

Q.—You were conducting the correspondence for the trustee, for the syndicate? A.—Yes.

Q.—Then had you any arrangement with Mr. Pritchard with respect to your own remuneration? A.—That was the arrangement with Mr. Pritchard. Mr. Pritchard's price for that land was \$5.25 cents which we refused to give, and he made exactly the same proposition that was made in the other, that he did not want to lower the price of his lands, that he wanted to keep the sale price up, but that if we would take those lands he would rebate one-half of his commission, which was 25 cents, his commission being 50 cents.

Q.—You took 25 cents not 12½ cents? A.—25 cents on \$9,920, makes \$2,480. That is the 25 cents.

Q.—You did not take half, you took it all, apparently? A.—I took half, his commission was 50 cents.

Q.—You said 12½ in the other case? A.—Yes, but that is not this case.

Q.—You said they were precisely the same? A.—I said that, but I supposed you knew I meant they were each carried on on the same basis. They could not be the same because they were different properties.

Q.—Do you say his commission was 50 cents? A.—Yes, and in the other case, 25 cents, in which he rebated 12½.

Q.—In addition to this \$2,480 Mr. Pritchard would get another \$2,480? A.—That was his claim.

Q.—That was his claim out of his principals? A.—You cannot look at a piece of land out of a railroad car out there, without someone wanting commission for it. It is the greatest place for commissions I ever saw.

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Q.—That was that transaction as you remember it, and as you give it to us? A.—Yes.

Q.—Will you be good enough to follow that cheque and find out where you got it cashed, and find out what shape it was in and what shape it is in now and the money which is represented by it? A.—Oh, I can give you that. The money that is represented by that is held by the syndicate for a final accounting.

Q.—I want to find out where the money is now, if you can give it? A.—Yes.

MR. SHEPLEY: I have not heard from the witness Fowler at all. I think I am justified in asking your Honors now for an order to commit Mr. Foster.

WITNESS: Not me.

MR. SHEPLEY: I beg your pardon. I meant Mr. Fowler. It slipped off my tongue.

THE WITNESS: It is quite pardonable.

JUDGE MacTAVISH: Has he a solicitor? I understood at one time a solicitor appeared for him.

MR. SHEPLEY: That was Mr. Lefurgey. We heard from Mr. Lefurgey about certain litigation. I see in the newspapers a statement that that is either settled or about to be settled. He has solicitors in that transaction, of course. Mr. DuVernet's firm are acting for him in that litigation.

JUDGE MacTAVISH: You can probably make some further inquiries during the adjournment. You have the telegram from him, and as far as one can read between the lines of the telegram, he certainly intended to come here. I think you should have some inquiries made as to his whereabouts. The solicitors in the other case might have some knowledge of his whereabouts.

MR. SHEPLEY: I will make inquiries in the meantime.

(The Commission adjourned at 4.30 p.m., October 9th, till October 10th at 10.30 a.m.)

EIGHTY-THIRD DAY.

MORNING SESSION.

Toronto, Wednesday, 10th Oct., 1906.

INDEPENDENT ORDER OF FORESTERS. (Continued.)

MR. SHEPLEY: Before the ordinary proceedings commence, I have a

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telegram this morning, sent as a night message, purporting to come from Mr. George W. Fowler, and dated at Winnipeg. In the telegram he says "Will be in Toronto Friday morning." Now that is as it may be. I do not at all take it for granted that Mr. Fowler's tardy attendance here upon his subpoena will be condoned by his appearing here on Friday morning, and that of course would be dealt with when Mr. Fowler does come. In the meantime I am considering—and shall mention it later to your honors—the propriety of having a Bench warrant, which will at all events secure his attendance here, telegram or no telegram.

JUDGE MacTAVISH Yes.

MR. SHEPLEY: I want formally to file copy letter 23rd May from Mr. Stevenson to Sir John Boyd, (Exhibit 565.)

GEORGE E. FOSTER, recalled.
Examined by Mr. Shepley:

Q.—This I omitted to put before you yesterday, if you will just help me with this for a moment. This purports to be a statement of the other investments in addition to those we were talking of yesterday, on the 31st December, 1905. Just glance your eye over them? A.—Yes.

Q.—In addition to the \$449,109.68, shown as investments in United States securities yesterday, there is the sum of \$911,505, face value, of investments in the following: Kamloops Lumber Company—I am speaking now of the 31st December, 1905—

Kamloops Lumber Co.....	\$315,000
Alexandra Palace, shares..	150,000
Alexandra Palace bonds ..	130,000
The Improved Realty Company's Preference stock.	60,000
Union Bank of Canada shares	168,000
Northern Bank of Canada, shares	50,000
Nanaimo Bonds	26,005
Crows Nest Pass	12,500

Or a total of\$911,505
which added to the 449,109 68

Makes a total of\$1,360,614.68

(Statement exhibit 566.) That is the amount shown under the heading

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"assets" in the fifth annual report, (Exhibit 554.) That is the report of the 30th December, 1905 under the title "Bonds, stock, debentures." That is an analysis therefore of that asset. Now Mr. Foster I want just to have it made clear. You remember yesterday speaking of two transactions by way of giving up on the part of the Montague Syndicate? A.—Yes.

Q.—That is yielding? A.—Yes.

Q.—What was the nature of the first? A.—There were three parcels of land, as I recollect it, which we canvassed yesterday, that had been bought after the original purchase by Dr. Montague of the 44,000 acres, and these had been purchased also for the same syndicate, and to go under the same mortgage arrangement, but I do not know what led to it, except possibly the idea that that was growing too large, as far as the quantity of lands was concerned, and that it had better be surrendered and passed over to the Union Trust Company, and that suggestion, from whatever source it came—and I am not sure that it did not come from Dr. Oronhyatekha himself—but from whatever source it came, it was canvassed, and although I set out my objections as being what I may call an outside party to it, and how it affected me, I however acquiesced in that, and in the end I cheerfully acquiesced.

Q.—As you said, in the end you acquiesced cheerfully? A.—But I acquiesced more cheerfully in that because I supposed that that would make thoroughly firm the carrying out of the transaction with reference to the 44,000 acres. That is the original purchase.

Q.—Let me see if we have that quite correctly. The syndicate had made certain purchases, or were proposing perhaps to make certain purchases in addition to the original lands which had been bought? A.—No, had actually made and paid money on them.

Q.—Do you know whether the agreements were in existence at the time this transaction was made? A.—That I cannot tell, but I know they were purchased and the payments were made upon them by the Foresters.

Q.—You know they were purchased and payments had been made upon them? A.—Yes, by the Foresters.

Q.—Then some pressure was brought to bear, you do not recol-

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lect whether it was from one side or the other, whether it was because you were getting too much land, or whether Mr. Stevenson was urging his objection? A.—I do not know whether Mr. Stevenson—I do not recollect Mr. Stevenson in that matter; if I have any recollection about it certainly the suggestion did not come from him, and if I have any recollection about it it is this, that Dr. Oronhyatekha talked with me about it, and Mr. McGillivray.

Q.—Can you give us the gist of the conversation that took place? A.—I think it was this, that probably there were too many of these lands being acquired by the syndicate, and it would be better to forego any right we had in them, and turn them over at the cost to us; that is at the original cost for the acreage to the Union Trust Company, which at that time was purchasing lands.

Q.—Now I ask you to go back a little further, and let me refer you to the minute of the 3rd of June, 1903? A.—Yes.

Q.—That was a meeting at which the New Ontario Farm and Townsite proposition was made? A.—Yes.

Q.—And you will remember there was another proposition that you laid before the Board on that occasion, which was this; the first was in reference to the New Ontario Farm and Townsite Syndicate Company, and the second was with reference to the lands under option to the Eastern and Western Land Corporation, Limited? A.—Yes.

Q.—Then in connection with the second proposition the General Manager was authorized to purchase up to 50,000 acres at a price not to exceed \$5.75 per acre? A.—That is the transaction we discussed before.

Q.—That is followed by a minute—I call your attention to that, by a minute on the 23rd June; on motion it was resolved that the Board approved of the purchase under its direction of lands in the North West Territory, as follows: 9,600 acres in township 44 at the rate of \$5.75 per acre? A.—Yes.

Q.—And 36,480 acres in township 48, and so on, at \$4.90 per acre, with \$2,000 commission thereon, payment therefor being divided into six equal parts, and the interest is to be 6 per cent.? A.—Yes.

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Q.—And it is understood that at any time the whole amount can be paid off and will be received by the vendors? A.—Yes.

Q.—You had purchased those lands from whom? A.—Which lot are you referring to?

Q.—I am speaking of the 9,600 acres, and the 36,480 acres, or if you make a distinction, by all means do it. I do not want to prevent you from doing it? A.—Just there will you say whether that small lot referred to in the second minute is or is not the same as was authorized to be bought at the preceding minute. My impression is they are the same lot.

Q.—I have not been going upon that hypothesis. "In connection with the second proposition the General Manager was authorized to purchase up to 50,000 acres at a price not to exceed \$5.75 per acre," and then the Eastern and Western Land Corporation is referred to in that? A.—Yes.

Q.—Then follows, "It was resolved that the Board approved of the purchase under its direction of land in the Northwest Territory as follows." That is what I have just read? A.—I think that small lot is the same in both minutes.

Q.—What minutes are you referring to? A.—The two that you have read.

Q.—What you mean is that the 9,600 acres is the— A.—The purchase made on that first authorization from the Eastern and Western Land Company.

Q.—Then there is added here—I do not know that it is very material—36,480 acres? A.—That was another purchase, but the first minute authorized me to purchase from the Eastern and Western Land Company up to 50,000 at \$5.75, and there is a confirmation of a purchase of 9,000 acres odd at \$5.75. That exhausts all that. I think I have not looked into the documents, but I should say that that 9,600 acres exhausted all that was taken out of that 50,000 acre limit.

Q.—I think I understand you now. That is you say that was the only land that was bought at the limit? A.—Yes.

Q.—But what I want to point out, and I want to see whether you will not say that—it seemed to me to be so—that the 36,480 you had purchased under this authority, although it was a smaller price? A.—No, I do not think so.

Q.—Where do you get the authority? A.—I get the authority there.

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Q.—There is a typographical mistake here. The word "approved" ought to be "approves"? A.—Yes.

Q.—That is what misled me. What I was thinking was that you had probably purchased in the interim? A.—No, no.

Q.—And that the Board was then approving of it? A.—I had a right to purchase in the first minute, and then the price was —

Q.—You had a right to purchase up to that amount? A.—Yes.

Q.—And you purchased that 9,000 odd? A.—Yes, about 10,000 acres was all that was purchased from the Eastern and Western or Ontario and Saskatchewan.

Q.—I want you to look at this agreement, so that you may not be under any misapprehension. It is an agreement which is marked at the top "cancelled," and it is dated 30th June, 1903? A.—Yes.

Q.—It is executed by John Aird and by the Union Trust Company by your hand as General Manager? A.—Yes.

Q.—You recollect probably what that is? A.—No, I do not.

Q.—First we look at the schedule. I may tell you it purports to be a transfer from John Aird of Winnipeg, Bank Manager, the gentleman you mentioned yesterday? A.—Yes.

Q.—And the Union Trust Company, Limited, of the second part? A.—Yes.

Q.—Let us look first at the schedule of the lands. The schedule of the lands shows 46,080 acres? A.—Yes.

Q.—Can you tell whether that acreage is the same acreage as is referred to in the resolution? A.—I could not tell you without taking the descriptions.

Q.—I will help you with that. The 9,600 acres in the resolution is township 44, Range 6, west of the fourth meridian? A.—That is the 9,960.

Q.—No, 9,600. If you will just follow me from that tick down; there is the 44. 6th, west 4th. If you count that acreage from there down you will find it is exactly 9,600? A.—Yes, the descriptions are the same.

Q.—I call your attention to the fact that this is marked "cancelled" so that you may not be misled by it, if there were any possibility of that, but this purports to be an agreement between Aird and the Union Trust Company, transferring both these parcels of land, the 9,600 acres and the 36,480 acres to the Union

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Trust Company? A.—That includes both.

Q.—Do you recollect the transaction as it was then carried out? A.—No, I do not recollect it except as it was brought up by that.

Q.—The 9,600 was from the Eastern and Western Land Company? A.—Yes.

Q.—From whom was the balance bought? A.—The balance was bought from Aird. He was trustee for the lands through Mr. Scott, who has since died, of the firm of Scott & Scott.

Q.—They were interested, the Scotts were interested, in the Eastern and Western Land Company, were they not? A.—Yes. Mr. Scott himself was instrumental in selecting all those lands for the Eastern and Western Land Company.

Q.—Can you say whether or not Scott had not just as much title to the balance of this sale, the 36,480 acres, as the Eastern and Western Land Company had to the 9,600 acres? A.—I do not know what you mean.

Q.—You bought from the Eastern and Western Land Company the 9,600 acres? A.—Yes, that is what I assume was done.

Q.—The conveyancing shows it was Aird who conveyanced it? A.—Yes.

Q.—They had it under option from Aird? They bought it from him? A.—Yes.

Q.—The other land was conveyed similarly from Aird, but were not the Scotts possessed of the same title with respect to that as the Eastern and Western Land Company to the other? That is under Aird. Have they not an option or agreement with him? A.—I could not say certainly, but I would say the Scotts had an option from Aird for the larger portion, and that they had the option from Aird for the Eastern and Western or Ontario and Saskatchewan, I would not say which, but whether it had passed from Scott & Scott to the Eastern and Western in relation to the smaller part before or not I could not say. Something must have happened, because I see that is marked "cancelled." but have you the document which really passed the acreage in the end—the contract?

Q.—The conveyancing all comes from Aird? A.—Yes, because he was trustee for the whole hatch.

Q.—He was trustee for the original vendors, but not for the Eastern and Western Land Company or the On-

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tario and Saskatchewan? A.—No, for the original vendors.

Q.—Do you happen to remember who the original vendors were? A.—No, I do not, but no doubt they are all in the records of the Eastern and Western Land Company. You must recollect I have not looked up these things since the time of the transaction. Without looking through the papers I could not tell you exactly what the meaning of these things is.

Q.—There are only two or three questions I want to ask you about it. It is a little complicated, but I must try and make it plain upon the record. Now there is a recital here that certain gentlemen named Smith, Chevrier, Benueto, Manahan, all of Winnipeg, became the purchasers of the lands set out hereto annexed from the C.P.R. really prior to the 1st of June. Would you recall those names? A.—I would not recall one of them.

Q.—I am given to understand that although four were named there were actually ten and that Scotts were one of them. That you do not know about? A.—No, I do not. I did not know one of them at the time.

Q.—That recites that Smith and others on the 1st of June, 1903, entered into an agreement with the parties of the second part—that is the Union Trust Company, Limited, for the sale to them of the said land at \$4.90 per acre, \$4.00 per acre being the full price payable to the Railway Company—(Reads agreement). That looks like a sale by Smith and others through their trustee Aird at an advance of 90 cents on what they had paid to the C.P.R. or were to pay? A.—That would appear from that document.

Q.—That you understood at the time? A.—I think I understood about the purchase price by the vendor and the price asked by Aird, and being agreed to by Aird.

Q.—Do you know where the document is that is referred to as the document of the 1st day of June, 1903? A.—I do not know.

Q.—That we have not been able to find. That seems to have been an agreement between Smith and the other three and the Union Trust Company? A.—If you had asked me whether we had ever made an agreement with Smith and company through the Union Trust Company I

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would say that that I did not recollect.

Q.—It dropped out of sight? A.—Yes, it dropped out of my mind at least, if it ever existed.

Q.—We have got Aird's position with respect to this. In what capacity were the Union Trust Company buying? A.—That batch—

Q.—The whole of it? A.—The 9,000 acres, buying for themselves.

Q.—The 9,600 buying for themselves? A.—Yes.

Q.—And also the other? A.—Yes.

Q.—Any trustee with respect to the other purchases? A.—No, these were purchases they were making for themselves outright.

Q.—You have observed, no doubt, that the price to the Union Trust Company fixed by this document is \$4.90 all round, not \$4.90 as to the large block and \$5.75 as to the small block. You have observed that from what I have read to you? A.—Yes, but that is a cancelled document, and must have been cancelled for some reason, and what the reason is I cannot tell now.

Q.—And you cannot at the present moment explain why when you were buying at \$5.75 the smaller block, why the consideration for the whole is put at \$4.90? A.—I cannot explain that at all, but there is evidently some reason for it being cancelled, and I would like to see what the document ultimately—

Q.—I am going to show you that. I do not think I will take up your time by going through it in detail, but there is one thing I will ask you about. "The ultimate profit on both parcels" (Reads from agreement.) A.—Those are the vendor's prices.

Q.—You see that the first payment and the second payment each represents exactly 1/27th. Do you remember the reason for that? A.—No.

Q.—You do not recall that at all? A.—No.

Q.—That is the 30th June. Then there is another thing I want to call your attention to here that bothered me a little and made me think there must be a document of the 1st of June as stated, and that this was partly copied from it. You see this recites that Smith and others on the 31st July, 1903, assigned and transferred to Aird, the party of the first part, all their interest in the purchase money, and also all their title to the lands. Now the 31st July would not come for a month after this document bears date? A.—There were

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some things in it which made it necessary to cancel it.

Q.—Possibly the conveyancing, though dated 30th June, may not have been complete until the title was got in on the 31st July? A.—That might be so.

Q.—Then there are two other documents to which I want to call your attention, and they are both dated 30th June, and they were made originally between Aird and Montague—you see that—and so executed? A.—Yes.

Q.—Subsequently the name Montague is struck out as grantee and the Union Trust Company put in? A.—Yes.

Q.—And that is in respect of an area of 10,240 acres? A.—Yes, different area and different descriptions.

Q.—On the same day is a similar conveyance, similarly executed and similarly altered—I point that out to you—and conveying still another area of 8,960 acres? A.—Yes.

Q.—Now, do you recollect that? Does seeing these documents bring back anything to your recollection? Both of these have the same recital, or a similar recital, that Smith and others on the 1st June entered into an agreement with the party of the second part. Is anything recalled to you by seeing the document? A.—The only thing that occurs to me is this; that these are two parcels of land that had been bought for the syndicate and that when the decision was come to to pass over to the Union Trust Company, that instead of Montague's name the Union Trust Company's name was substituted with the consent of the other party.

Q.—It was rather an awkward way of doing it? A.—That is all I know about that.

Q.—That is the only suggestion it occurs to you to make? A.—Yes, I think you will find that is so.

Q.—You think these lands were the lands which were being purchased for the Montague syndicate? A.—Which were first purchased for the Montague syndicate, and then instead of drawing out new papers entirely with transfers, one name was struck out and another put in.

Q.—And executed by the Union Trust Company? A.—Yes. Lawyers have a short way of doing things.

JUDGE MAC TAVISH: Not always.

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WITNESS: Sometimes. That is the only explanation I can think of.

Q.—If you take the 9,600 acres at the \$5.75, as was done in this document we showed you yesterday, and the 55,680 acres at \$4.90 per acre, you get the constituents of the 55,680 by adding together the two altered documents and the larger area in the first? A.—Yes, that bears out my suggestion.

MR. SHEPLEY: I put in these two documents, agreement 30th June, 1903, John Aird, Union Trust Co., Limited, respecting 8,960 acres. Exhibit 567. Agreement 30th June, 1903, John Aird and Union Trust Company, Limited, respecting 10,240 acres. Exhibit 568.

Q.—Before taking the next document in its order we come to the minutes. I desire to use the original minutes, as there are erasures in this which do not explain themselves. On the 19th April, 1904, this minute occurs, "Descriptions, reports and maps of certain lands in Manitoba and the Northwest Territories were laid before the meeting, and on motion of Colonel Davidson, seconded by Col. McGillivray, it was resolved that the General Manager be authorized to purchase for the company the following lands at the prices, and as of the dates indicated? A.—Yes.

Q.—First the Battle River Lands, township 45, range 25, and so on, containing 8,960 acres? A.—Yes.

Q.—Then thirdly—I will pass secondly for the moment—thirdly, township 46, range 8, containing 10,240 acres? A.—Yes.

Q.—You identify those two parcels with what we have just been speaking about? A.—Yes.

Q.—Then fourthly, Carrot River Lands, townships 45 and 46, each containing 20,480 acres? A.—Yes, those are the Bettes lands.

Q.—Those are the lands you got from the Ontario, Manitoba and Western? A.—Yes.

Q.—Then the Swan lands? A.—Those are the Whitlaw lands.

Q.—What was the genesis of this meeting of the 19th and this resolution? A.—I have already explained it to you.

Q.—What you have been telling me about? A.—Yes, and at that meeting there was carried out what had been suggested and agreed to.

Q.—That is that the Montague syndicate should— A.—No, no.

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Q.—What was it that was suggested? A.—Just what appears on the face, and just what I told you, that so far as all purchases made after the original purchase of the 44,000 acres, that they should not be any longer handled by the syndicate, but handed over to the Union Trust.

Q.—That was the suggestion put forward by Mr. Stevenson? A.—No, I think the doctor and Mr. McGillivray. They talked it over with me and I assented.

Q.—Do you say—because I want you to give your attention very carefully to this point, as you do to everything—will you say that it was not in the conversation that then took place indicated that the Montague syndicate should cease to exist as a borrower from the Union Trust Company? A.—Absolutely not—oh, as borrower from the Union Trust Company—we never borrowed from the Union Trust Company.

Q.—From the Independent Order of Foresters? A.—It certainly was not. It was simply, as I told you before, a giving up of the extra lands we had taken since the original purchase, and I more willingly assented to that, because I thought the rest of it would be secured, and that my equities, which had assumed a form which was rather important to me, would be preserved.

Q.—Then you quite appreciate— A.—Oh, I understand your question.

Q.—You quite appreciate the point I am putting to you, which is this; was not the principle which was then objected to applicable to one class of land as well as the other? A.—It may have been applicable to one as well as the other. At that time it was time it was not the principle; it was the question whether we were carrying too much on that mortgage or not. The conclusion was that there were too many lands, and that we had better not carry them. I am perfectly clear on that and I reserve nothing.

Q.—Was there anything done by way of transferring from the Montague syndicate to the Union Trust Company the interest in the lands that are covered by this resolution we see upon the minutes, and those two altered conveyances? A.—I think that was all. I think that would convey it.

Q.—You think that would be all? A.—Yes.

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Q.—You know of no other document in respect of those lands? A.—No, I think that made the complete transferral from one to the other as of the date that the Montague Syndicate purchased them in the first place.

Q.—I cannot ask you about the other till I see the original minutes. There appears to have been here also the 20,480 acres. That was intended of course to be covered? A.—Which?

Q.—That is the largest area in the Aird sale? A.—All was intended to be covered outside of the original purchase.

Q.—The \$4.90 area? A.—Yes, all were intended to be covered except the original purchase.

Q.—You do not quite know why this has been erased? A.—Has it been erased?

Q.—It has been erased in the copy given to me. I have not the original yet. You see there is the 20,480 acres. You see there is 20,480 acres here and here. That may be a duplicate? A.—Yes, it is a duplicate.

Q.—Then it does cover the whole of it? A.—Yes, it was inserted twice and then erased.

Q.—After that 29th April, 1904, these lands were the property of the Union Trust Company? A.—From that date.

Q.—And any interest of the Montague Syndicate in them was extinct? A.—Absolutely extinct.

Q.—Do you recollect that letter? A.—That calls to mind the circumstance. I think I call to mind a communication of that kind in that sense.

Q.—I will read this and then you will explain it to us. This is the 5th December, 1904, and is a letter from Messrs. Hough, Campbell & Ferguson, of Winnipeg, solicitors. It is addressed to yourself as Manager of the Union Trust Company and states: "Our attention has been called to a mistake that was made in the agreement entered into between Mr. Aird and yourself, and of which we only learned a few days ago. It would seem that in the agreement made between your company and the late Mr. Scott acting on behalf of the Eastern and Western Land Company, one township of the land in question was purchased by your company at the rate \$5.25 per acre, and not at \$4.90 per acre, as mentioned in the agreement which was drawn up by us and executed." (Reads letter down to the words "and if so we will

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have the agreement amended accordingly." Exhibit 569.) A.—That would account for the cancellation.

A.—What does he mean by saying that the land was purchased by your company at \$5.25 per acre? A.—That was the price we paid to the Eastern and Western for that.

Q.—I thought it was \$5.75? A.—If you will recollect the minute on that that we had in evidence and that we discussed, the price was \$5.75, but we were to pay interest on such part of it, on \$5.25—

Q.—Which was what it cost them? A.—Yes, and the 50 cents extra made up the price of \$5.75 which we paid them.

Q.—This letter says it was at the rate of \$5.25 that you were paying the Eastern and Western. You were really paying them \$5.75? A.—Oh, I do not know about that.

Q.—You did pay \$5.75? A.—Yes, we did pay \$5.75. As to his understanding of what we paid, I do not know.

Q.—This letter pointing out this matter is inaccurate? A.—It is inaccurate so far as saying it was \$5.25 instead of \$5.75.

Q.—Now we come to the document which seems to arrange itself as following that. You will observe this is the old document of the 30th June, with the exception of the alteration in the price of the one block of land. It is put \$5.25 per acre instead of \$4.90 as it was in the other. The two blocks are separate, one left at \$4.90 and the other put at \$5.25. You observe that? A.—Yes.

Q.—The date is left the same, and there are two schedules separate, 36,480 and 9,600 acres? A.—Yes.

Q.—You observe that? A.—Yes.

Q.—This appears to have been executed, and you have not any doubt I suppose that that was in consequence of the letter? A.—Yes.

MR. SHEPLEY: The one marked "cancelled" and the one I have just put in will go in as one Exhibit. (Exhibit 570.)

Q.—Then to clear it up, I have here the statement which Mr. Cross has prepared for me of how the other 50 cents an acre was paid. It was paid in October, May and June; certain discounts were taken for cash which when added to the cash paid makes up exactly \$4,800? A.—Yes.

Q.—That was paid in addition to the \$5.25? A.—Yes, making up the price \$5.75.

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Q.—And to whom did that go? A.—That went to the Eastern and Western Land Company.

Q.—Was there any agreement upon the subject of how this 50 cents an acre was to be paid? A.—No.

Q.—No written agreement about that? A.—No.

Q.—Because Mr. Cross points out that the indications are that it is payable in six instalments of \$800 each? A.—Yes, and paid off with a discount.

Q.—That was only a verbal arrangement? A.—Yes, I suppose so. It would have borne interest if allowed to remain, or if we paid interest—

Q.—But you were not to pay interest? A.—No.

Q.—Had you any written agreement upon the subject? A.—I do not know.

Q.—Because all the written agreement you have got is at \$5.25? A.—The only thing I remember at the present time was the authorization on the proposition that was presented at \$5.75, you have that in the minutes of the Union Trust Company.

Q.—But there was no written agreement between you and Aird, or between you and the Eastern and Western Company covering that? A.—I do not think so. That is, I do not remember of any. If it is not in these documents there was none.

Q.—You were officially connected with both bodies? A.—Yes.

Q.—And probably looked after the interests of both in that respect? A.—Yes; having, it must be clearly understood, the authorization of the Union Trust Company to make the payment as shown by their minutes.

MR. SHEPLEY: I will put that in. (Exhibit 571.) That will show how the 50 cents was arrived at.

Q.—There was a question I wanted to ask you about these minutes. You observe that certain dates are mentioned here. The company is to purchase the following lands at the prices and at the dates indicated. Township 45, June 30th? A.—That is the date upon which it was bought by the syndicate.

Q.—The Carrot River lands on October 15th? A.—Similarly.

Q.—And the Swan River lands 31st December? A.—Similarly.

Q.—That was all arranged according to the fact? A.—Yes.

Q.—Then came the time when you unwillingly parted with the original land? A.—In the face of my unwillingness they were parted with. That is the way I would like to have it put.

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Q.—You say in the face of your unwillingness they were parted with. If you are satisfied with the way you put it yesterday we will leave that? A.—Yes.

Q.—At that time these very lands were vested in the Union Trust Company as trustee for the Montague syndicate. That was the title to them? A.—Yes.

Q.—The trustee was the Union Trust Company. It held the lands as trustee for the Montague syndicate, subject of course always to the Foresters' mortgage. That is right is it not? A.—That is indicated by the terms of the mortgage itself? Yes, that is right.

Q.—And the mortgage is in? A.—Yes.

Q.—Then the transaction apparently took this form, that the Union Trust Company conveyed the land to the New Montague syndicate, that is Mr. Montague, Mr. Biggar, Mr. Kitson, Mr. Grantham, Mr. Gauld, and Mr. John Montague? A.—That is another transaction that takes in—I was going to say it took in more than the Montague lands, but go on, we will see how it goes.

Q.—So it does. At any rate all the conveyancing that was done in respect of the Montague lands is found in this document, with one exception, which I will show you in a moment. I want to have your assent to it so that I can have it established? A.—If the book says so.

Q.—The book does not say it is the only one, but do you know of any others? A.—No, I do not know of any others.

Q.—This was dated 1st of January, 1906, and it includes not only the Montague lands, but certain lands belonging to the Union Trust Company beneficially? A.—Yes.

Q.—And the method that was adopted was to dispose of these lands at a fixed price per acre to the new syndicate? A.—Yes.

Q.—To realize a profit? A.—Yes.

Q.—And the transfer that was made to the new syndicate involved the assumption by the Trust Company of the Foresters' mortgage? A.—Yes. (Transfer Exhibit 572.)

Q.—Montague himself was a trustee in respect of the Montague syndicate, was he not? The dealings were in his name? A.—The original dealings were in his name, and after they had gone on a certain time I

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thought it would be better if the Union Trust Company were made a trustee and the transactions were carried on in that way.

Q.—But the Union Trust Company under the conveyancing which we put in some days ago had ultimately to account to Montague as trustee for the syndicate? A.—Yes.

Q.—I see that Montague on the 30th of December, 1905, executed this document which was in duplicate. Were you aware of this before? A.—What is the document?

Q.—It is a release. You were the Managing Director of the Union Trust Company. On that date 30th December, 1905, you were still actively managing the Union Trust Company? A.—I was.

Q.—You have not forgotten about this, have you? A.—Well, I have.

Q.—You see this purports to be an absolute release, "He grants releases and quit claims unto the Union Trust Company all the estate, right, title and interest, claim and demand whatsoever, both at law and in equity." A.—Is this the original document?

Q.—I think so? A.—If it is the original document you do not find my handwriting there.

Q.—You must have known about it at the time. I was asking you if you had forgotten it? A.—I do not recollect ever to have seen that document. While saying that I do not say that I was not aware that that was the intention, and I had, as I have told you several times, made my protest against it so far as I was concerned, now I would like to see the original document and see whether I had ever signed it.

Q.—This is the document? A.—Is that the original document?

Q.—Yes, this is the document I am speaking of. This is in duplicate? A.—And it is just simply a release by Montague?

Q.—Yes? A.—I do not think I ever saw that document.

Q.—You were aware of it? A.—Yes.

MR. SHEPLEY: I put that in. You need only mark one part of it, and then we can substitute a copy of it. (Exhibit 573.)

Q.—When you say you were aware that was the intention, what did you mean that you understood was the intention, or what was the intention you understood? A.—I understood it was the intention of Dr. Oronhyatekha, and McGillivray, and Dr. Montague

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acquiescing in that, to dissolve that syndicate, and let it go to its original elements, and that would let me go, and my equity in that would be entirely destroyed, and I presented my case very emphatically to Mr. Stevenson, I remember, and Mr. McGillivray and I pointed out what I thought was the injustice to me as far as my equities were concerned. It was however carried out, and as I said yesterday, against unwilling assent, but I do not know what the legal position is now. Dr. Montague has made the assignment.

Q.—When you say against your unwilling consent, would you not change that and say with your unwilling consent? A.—Yes, anything that will make it strong in the sense that I mean it.

Q.—Let us look at this and get the hang of this bookkeeping. This account on page 207 seems to have been opened in the name of Dr. Montague Land Trust, and afterwards Northwest Land Syndicate, that is the Montague syndicate is it not? A.—Yes.

Q.—Then you see that account is closed out by a balance of \$531.30, by real estate \$531.30 on the debit side, and on the credit side by real estate there is a large amount—but if you do not understand about the bookkeeping I do not want to ask you? A.—I do not understand.

Q.—You do not understand what bookkeeping method was adopted in the books of the Trust Company, in regard to this property from the Montague syndicate to the Trust Company? A.—No. Our accountant could tell about that. If I had payments and receipts I could tell where that came from and where that went to.

Q.—You do not know about the method of bookkeeping that was adopted for the purpose of closing that? A.—No.

Q.—The Montague Trust account seems to have continued after April, 1904? A.—Yes.

Q.—That would be in respect of the retention of the original land? A.—Yes, it carried out my evidence in regard to that.

Q.—And that seems to be closed out by a payment, "real estate, Montague, \$163.98." That is a completely closed account apparently? A.—Yes, that would be closed—at the date there, December 28th, 1905. That

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would be when the final transfer was made by Montague.

Q.—Then you are not able to explain that? A.—I would rather not go into that.

Q.—I think it is better for you not to go into it if you do not understand it: unless you could help me with it. Now, have you made any inquiries since you were here yesterday, with regard to that cheque? A.—Yes, it was exactly as I supposed it was. That cheque was deposited to my account and I went to the bank this morning and it was found and that was written on it.

Q.—It was deposited to the credit of your account in the Standard Bank on the 6th February, 1904? A.—Yes, the same date that it was received.

Q.—Would it be convenient for you to let me have the pass book? A.—I haven't it.

Q.—You haven't any pass-book? A.—No.

Q.—Will it be convenient for you, then, to give me a direction to the bank to examine the account? A.—To examine the account with reference to that?

Q.—Yes? A.—Certainly.

Q.—Is it there yet, Mr. Foster? A.—No, it has had many metamorphoses since that.

Q.—Is it there in the bank? A.—No, it is not.

Q.—Is it in any other bank? A.—Yes.

Q.—What other bank is it in? A.—Well, now, I will not say it is in a bank, but I will say this, that that and more is available at any instant.

Q.—That is not exactly what I asked? A.—Well, that is all I can give you, Mr. Shepley.

Q.—Is it not just put away there, waiting the time when you make your adjustments. You have used it? A.—Oh yes, certainly. I had just as much right to use that as Dr. Oronhyatekha had to use the \$2,000 that he received.

Q.—Perhaps you had? A.—That was my view of it.

Q.—Do you happen to know what he did with his? A.—I do not. I never asked him. He put it to some good purpose, I warrant you.

Q.—And I suppose you did too? A.—I tried to, but one can never tell how a thing is coming out until it comes out.

Q.—Then the cheque is now put in (Exhibit 574) and as you say you will let us, if we desire, examine the bank

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account with regard to it? A.—With regard to that transaction, certainly.

Q.—And with regard to its either going out or not going out of the account? A.—Yes, you can trace that as far as the Commission wants these moneys traced, to the very end.

Q.—Well, then did you examine the disposition made of the \$5,000 that is marked commission? A.—Yes, I chequed out \$1,250 to Mr. McGilivray, the same to Dr. Montague and the same to Dr. Oronhyatekha and left \$1,250 in my own account.

Q.—Now, with regard to that \$5,000, you were entrusted with that money, that \$25,000 by the Foresters for the purpose of purchasing lands to add to their security? A.—That money was money advanced by the Foresters to be paid on lands purchased for the syndicate.

Q.—With the intention, on the part of the Foresters, that it should be employed in bringing lands under their mortgage? A.—Yes.

Q.—That it should be expended in that way? A.—Yes.

Q.—Well, then, if that is so, Mr. Foster, how do you justify diverting \$5,000 of it to some other purpose? A.—Well, you may say we diverted \$5,000 of it to some other purpose, or you may say we paid out of the credit which we had of the \$10,000 that had come to us and which was placed on the books to that account.

Q.—Let us face the thing as it is. You paid it out of this \$25,000 and out of no other fund? A.—It was paid out of that, but at the same time in that same syndicate account there was \$10,000 to our credit.

Q.—I am coming to that in a moment. There was not \$10,000 to your credit if you will bear with me for saying so; there was \$1,000 less certain disbursements, to your credit. \$2,000 of that ten had been given to the Doctor and \$7,000 of it had been paid and applied upon your mortgage, so you had not \$10,000; do not put it that way, please; you had what was left of the \$10,000, if you like? A.—Let me see the dates of those payments, will you?

Q.—Yes.

MR. NESBITT: The \$7,000 was paid afterwards. Months afterwards.

MR. SHEPLEY: We will see? A.—What was the date of the covering in of the \$10,000?

MR. NESBITT: October 1st, 1903? A.—This payment was not made until

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December 15th, the first one, and February 2nd, the second one. Months after that credit was put to us.

MR. SHEPLEY: We will get it just the way it is. We do not want it any other way. The \$10,000 which was afterwards forfeited, was received on the 1st October? A.—That was received. That is the date of it being transferred to this account as actual cash.

Q.—That is, you received, less certain law costs? A.—\$163.

Q.—You received \$19,836.40 on the 1st October? A.—Yes.

Q.—And when did you become entitled to forfeit that? A.—It was forfeited when it was put there. It came there by virtue of the forfeit.

Q.—I thought they had paid you the money and when they did not carry out the contract you forfeited it? A.—No, I will tell you my understanding of it, which I think you will find is correct. The forfeit was not put up in the Union Trust Company; the forfeit was put up in the bank where the transaction was to be carried out and it remained there until they carried out or did not carry out the transaction. When they did not carry out the transaction it became forfeited and at that very moment it was put to our credit here. It was actual money but not contingent at that time.

Q.—Can you get for me the Green and Thiedan contract so that we can examine the terms of it? A.—I suppose it is—but the fact is certainly there that it was a forfeit and that it came into our possession.

Q.—All that I am asking you is whether that contract is available? A.—I think so.

Q.—Where would it be? A.—It would be in the Union Trust Company, I think. It may be with the Foresters. I don't know where those papers are.

Q.—At all events you haven't it? A.—I haven't it amongst my papers, no.

Q.—Then you paid out certain small sums, out of that. Some registration charges, some telegrams; trustees' fees to date. Is that the Union Trust Company? A.—Yes.

Q.—Then certain drafts and then on the 28th December the two cheques for the \$2,000 and the \$7,000 go out? A.—The 28th December, that is right.

Q.—Now those were the cheques of the Union Trust Company, of course? A.—Yes, drawn on this account.

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Q.—Drawn under your instructions? A.—Yes.

Q.—And what you were intending to do was to give the doctor \$2,000 of that and to pay the other \$7,000 on account of the loan? A.—Interest on the loan.

Q.—And you paid that where you intended to? A.—Yes.

Q.—And you intended to reduce the mortgage liability by that amount? A.—Yes.

Q.—You had always intended to do that, had you not? That was the destination which you intended it should go to, the \$7,000 was to go to reduce, as you say, the interest upon your mortgage? A.—Well, we had to pay the interest on our mortgage.

Q.—Do you still say, Mr. Foster, that you were at that time thinking of that \$7,000 or \$8,000 or \$9,000, when you took the \$5,000? A.—Well, we knew that we had that in.

Q.—Were you thinking of it? Were the two things connected together at all in your mind? A.—I cannot remember at this distance whether they were or were not.

Q.—Tell me again, because I did not quite grasp your meaning yesterday, what present rights you conceive that the Montague syndicate has in any part of that \$7,000, and on what grounds you put it? A.—Well, the ground is this, that these lands were to be taken over at the primary cost of the lands as bought by Dr. Montague for the syndicate plus all interest, taxes, costs and charges up to the time when they were taken over, that is the intention being that the Union Trust Company should get them at just exactly what the lands cost us, taking all these things into consideration, when the transfer was made. That if we had paid \$100,000 on that mortgage as a payment on those lands, that when the Union Trust Company under that agreement took them over, it would be bound to account to us for the \$100,000 which we had paid. It was no part of the agreement that they should take over the lands at the original cost less a third or a quarter or a tenth or a single dollar of what we had paid on moneys we had not borrowed from them or moneys we had got from any other source. They would have been obliged to account to us for the \$100,000. They are, to my mind, obliged to account to us for the \$10,000 in exactly the same way, as it was the

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syndicate's money, and not the money of the Foresters.

Q.—Was there anything said about the syndicate emerging from the transaction with a personal profit? Was that suggested by anyone? A.—In the arrangement for taking over?

Q.—Yes? A.—No, not that I know of.

Q.—That was not suggested by anybody? A.—No, not that I know of, barring my protest.

Q.—Leaving that out of the question for the time being, you were to emerge from the transaction without personal profit, as you understood it, the Trust Company stepping into your shoes? A.—Well, now you put it one way.

Q.—Is that the fair way to put it? A.—I don't think that agrees with my way of putting it.

Q.—I know it does not? A.—My way of putting it was, and my understanding of it was that the Trust Company should pay at the time they took over those lands, what the lands cost when they were first purchased, plus all interest, taxes and expenses, charges, up to the date that they took them over, and that, if in any way, or from any source payments were made of any amount, that that was not to accrue to the benefit of the Union Trust Company.

Q.—Then let us just proceed with that a little bit further. You have already told me that no suggestion was made that you should emerge from the transaction with a profit? A.—Now, let me take that back, because I did not see the singular ingenuity of your question just at that time.

Q.—You do not have to see ingenuity in questions; all you have to do is to understand them and answer them? A.—I have to answer them as I understand them.

Q.—Didn't you understand what I meant? A.—Well, no, I see now exactly where you are drifting.

Q.—I am not drifting? A.—I will answer that question again, if you please, but my answer to it is the last statement I have made, which I can make no clearer and no fuller.

Q.—I will ask you to say, at the time these negotiations were going on, whether anybody from beginning to end ever suggested that the syndicate should emerge with a profit? A.—I don't think anyone ever suggested that the Union Trust Company should do other than pay the original cost of the lands plus all charges up to the time when they took them over.

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Q.—You are too keen, Mr. Foster — A.—I am not too keen. I am simply honest.

Q.—You have not heard what I am going to say. You are too keen not to appreciate that you are not addressing yourself to my question? A.—You put your question in a certain way, and I give the exact truth as my answer.

Q.—You should answer it yes or no.

MR. NESBITT: He is not bound to answer yes or no.

MR. SHEPLEY: My learned friend should not interrupt.

MR. NESBITT: I think I should in this instance.

MR. SHEPLEY: No, my learned friend has no right here, except courtesy.

WITNESS: Has my counsel no rights here at all?

MR. SHEPLEY: Except by courtesy, none? A.—Then that throws a very lurid light over this discussion in the phase which it has assumed at the present time.

Q.—To go back to my question. From beginning to end of these negotiations, did any person engaged in them suggest that the syndicate, or any member of it should emerge from the transaction with a profit? You can say yes or no to that, surely? A.—I do not recollect of any such suggestion.

Q.—Very well, then, that is answered. The Union Trust Company, of which you are the Manager, was keeping a trust account, the result of which from day to day showed what is sometimes spoken of as the book value of the trust assets. That is right is it not? A.—The books would show if a full account is kept, yes.

Q.—What is called the book value? A.—Yes.

Q.—And the book value of that asset would take into account the fact that you had lessened your expenditure upon the lands by means of this forfeit, would it not? A.—It would.

Q.—And was it not the understanding that that book asset was what the Union Trust Company should acquire, so that you would be at no expense? A.—No, the understanding was, as I understand it, absolutely what I told you, that the Union Trust Company did not propose to make any profits to itself, it proposed to give exactly what the lands cost plus taxes, interest and all expenses of their administration up to the time that they

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took them over. Now, I can repeat that a dozen times, if you wish Mr. Shepley, but that is my mind.

Q.—That is your contention, at all events? A.—Yes, that is my contention.

Q.—Have you taken any steps towards asserting this right? A.—I have not, as yet. I have made my protest in my humble way.

Q.—You have not taken any steps, but your protest was against something else, you know; your protest was against their taking the lands away from you? A.—My protest was against the destruction of my equities.

Q.—We are talking for the present only of this \$10,000? A.—Well, I have an equity in that.

Q.—That you think is one of your equities? A.—Yes.

Q.—I thought you were objecting upon a larger ground? A.—So I was. I did not narrow myself to simply the \$10,000.

Q.—Did you call attention, while the transaction was going on to this \$10,000 at all? A.—I am not sure whether I did or not.

Q.—Cannot you be sure whether you did or not? A.—No, I cannot be sure whether I did or not. My impression would be that I did talk it over with some of them.

Q.—And what was the result of your talking it over? A.—The result you see.

Q.—That is that they did not accede to the proposal you were putting forward? A.—I put no proposal forward. Do not put words in my mouth, Mr. Shepley. I put no proposal forward.

Q.—You made a suggestion or made a mention of this \$10,000? A.—Yes, I may have made mention of that.

Q.—And the result of your making mention was that your making mention did not make any impression? A.—The transaction was carried through and on this basis, that the original value of the lands plus the taxes and interest and expenses should be the figure at which the Union Trust Company should take them over. The Union Trust Company never proposed to profit by the syndicate. They got properties from the syndicate, bought when lands could be bought at \$3.50, which have been sold since for \$15 per acre, and the Union Trust Company was not quite mean enough, I think, to propose to take money out of the pockets of the syndicate; it got the lands under those conditions.

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Q.—The syndicate was not mean enough when they yielded their consent in the end, to want to take profits out of the Union Trust Company, either? A.—The consent was that they should be taken over at the figure and under the conditions I have named. Now, if you want me to name those again, I will.

Q.—I do not want you to name them again. You made a statement about the Union Trust Company not wanting to make profit out of the syndicate. I ask you if it was intended that the syndicate should make profits out of the Trust Company? You have said already, I think, that it was not? A.—We were not making profits out of the Foresters or the Union Trust Company.

Q.—You were making, if your contention prevails, profit out of the existence and operations of your syndicate to the extent of \$10,000? A.—We were not making any profits that came in any way out of the Foresters or Union Trust Company.

Q.—I did not say so. You were making profits out of the existence and business of your syndicate? A.—Well, we were a syndicate and had a right, I suppose, to our profits, if we made any.

Q.—I have not said anything with regard to that in my question. I have pointed out that you were in fact upon the hypothesis that you are contending for, making a profit out of your existence and operations as a syndicate. That is all I am pointing to you. Will you assent to that? A.—But we were not making that out of either the Foresters or Union Trust Company. I will assent to your question in the affirmative with that codicil added.

Q.—Very well, that will do. You do not, perhaps, recognize that you were in a position to offer these lands for sale and forfeit the contract, by the use of the money of the Foresters? That your ownership was dependent upon your having borrowed money from the Foresters? You do not recognize that as a factor? A.—I do not suppose a borrower is a beggar. If he makes an arrangement with a man to take money from him and pay him what he charges, it is his money and he is entitled to all the profits he can make out of it.

Q.—You do not recognize that as a factor? A.—I recognize it in this way, that if I borrow money from a man and pay him his interest, that

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money is mine and any profits that come out of it are mine, legitimately and rightly.

Q.—Then you do not recognize that as a factor in the determination of the question as to whether you are entitled to that \$10,000 or not, that does not enter into it in your mind?

A.—I do not follow your question on that.

Q.—You have said you are entitled to the \$10,000; that is your contention? A.—Yes.

Q.—I ask you whether it will make any difference in your contention if you take into consideration the fact that you were speculating with or using the money of the Foresters in your enterprise? A.—No, it would not.

Q.—Then it is not a factor. Now, Mr. Foster, are there any other transactions in which you have been concerned either for the Foresters or for the Union Trust Company, in which you have received moneys under similar circumstances, either by way of commission or by way of reduction in price? A.—None.

Q.—You say there are no others than those that have been mentioned? A.—Yes.

Q.—You know of none, even of the kind that you have spoken of? A.—None, no.

Q.—That is all that I have to ask Mr. Foster at the present time? A.—Am I now free?

Q.—I do not know that I can say that in an unqualified way. I hope still to examine Mr. Fowler, and something may arise out of his examination which may make it desirable that I should call you again, but I trust not? A.—I feel like saying this, Mr. Shepley, if I may be allowed, that I have been here a little more than a solid month, right close by your elbow, ready to be investigated. I have not been able to do any business or attend to my own work in that time and I think I ought to give you fair warning that I am going about my own business now and if you can get me you can, but I am not going to stay around here. How does that suit?

Q.—I hope we will not have to call you again, but I cannot undertake, of course.

JUDGE MAC TAVISH: Mr. Foster can be discharged and he may be recalled on notice.

WITNESS: One more thing I wish to say. A statement which was made by Mr. Shepley this morning puts

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the matter in a stronger light than I would have dared to put it. He stated this morning that my counsel has positively no right here.

MR. SHEPLEY: Except by courtesy, I said.

A.—He is simply here by courtesy, and I am deprived in this investigation—if you will call it an investigation—of all the benefit of cross examination independently by my counsel. Now in reference to that I think I may well ask, your Honor and your Commission to be allowed to make a short statement in my own way, from this box, with reference to my transactions in this matter, so that I at least may have the satisfaction of spreading on the minutes and getting before the country—in so far as it can go—my own connected view of the matters which have been brought up. I think I can make that in about half or three-quarters of an hour, if you will give me that time some time this afternoon.

JUDGE MAC TAVISH: Do you prefer not to do it now? A.—I prefer not to do it now.

MR. SHEPLEY: You are not, perhaps, aware, Mr. Foster, that throughout this inquiry I have been careful to put any questions that have been suggested to me by anyone's counsel? A.—But as a lawyer you know how very unsatisfactory that would be to you, if you were conducting a prosecution.

Q.—Let us not talk about prosecutions.

JUDGE MAC TAVISH: This is not a prosecution, Mr. Foster.

MR. SHEPLEY: If Mr. Nesbitt thinks any questions should be asked?

MR. NESBITT: I would say this, if you will permit me. I would only suggest that Mr. Foster's case differs to this extent, perhaps, from any you have had, except, perhaps, one or two, and I have no doubt that the Commission and Mr. Shepley will see it in the light that I am about to put it. Mr. Foster occupies—it is idle to dispute—one of the most prominent positions in public life in this country, and therefore, as stated in English Commissions, one or two of which I read to you, to an extent the inquiry takes on, necessarily has taken on, under your Honor's ruling, an appearance of personal reflection as it were. In those cases in England the Commissioners have allowed—as a

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matter of fact in two cases which I will be happy to show my learned friend,—the counsel, so far as that was concerned, to interfere and cross-examine witnesses: Take, for instance, this discussion that is gotten up about the note-book or whatever it is, the minute book. That, of course, enemies of Mr. Foster can put in a very ugly and unenviable light, until he can make his statement. And so about one or two other matters. I should think your Honors and Mr. Shepley would welcome from him a statement as to those. That is all I can say. I think Mr. Shepley will agree with me.

MR. SHEPLEY: No one is controverting that; no one has suggested that Mr. Foster should be denied the privilege he asks.

JUDGE MAC TAVISH: Not at all. I thought he understood so.

MR. SHEPLEY: I would not think of suggesting that Mr. Foster should not speak as freely as he thinks proper.

MR. NESBITT: He desires to get his thoughts together, that is all, in order not to make them too long.

MR. SHEPLEY: You have not supposed, Mr. Foster, that I was objecting to your making a statement? A.—Oh no, I have not. I will be prepared to make that statement any time this afternoon, before the adjournment. I am sorry I cannot make it just now. If you insist I could blunder through it, but I would like to put it shortly.

JUDGE MAC TAVISH: I think you can make it shorter if you think it over. I need not ask you to remember that anything that is already sufficiently clear you can eliminate from the statement? A.—Except, your Honor, that a connected statement is sometimes much more useful than where it is disseminated through this everlastingly long series of statements and it takes a very happy mind or intellect to pick out and display the truth from all these documents; so that I may repeat shortly what has been stated in the evidence, but I will try and not take any more time than is necessary. Anyway the Government pays for it and the Government has a surplus.

MR. SHEPLEY: I do not understand that you are intending to bring any other documents? A.—No, I am not going to bring any new matter before you.

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(George E. Foster, Ex'd.)

(Matthew Wilson, Ex'd.)

Q.—Is there in existence and in your possession anything throwing light upon the matters we have been examining and that we have not seen? A.—No, you have searched me right through.

Q.—I put in the two cheques, for the \$2,000 and the \$7,000, of the Union Trust Company, one dated the 28th and the other the 29th of December (Exhibit 575.) (A memorandum re Land Purchase by the Union Trust Company and Syndicate filed as Exhibit 575½.)

MATTHEW WILSON sworn, examined by

MR. SHEPLEY: Q.—You practice the profession of law at Chatham, Mr. Wilson? A.—Yes.

Q.—What was your first introduction to any of the subjects into which we have been inquiring here? A.—I suppose it would be at the time I agreed to become a director of the Union Trust Company.

Q.—You had something, I think, to do with the negotiations that preceded the formation of the Union Trust Company? A.—Yes, that was before I agreed to become a director of the Union Trust Company. Independent of that.

Q.—In what way, in what capacity were you brought into those negotiations? A.—As representing a body of men who were on the Provincial Trust Company Board or liable for the Provincial Trust Company's affairs.

Q.—Were you a member of the Provincial Trust Company? A.—I think I was a shareholder to the extent of \$5,000 paid up.

Q.—Were you on the Board? A.—I think so. Not at its inception.

Q.—At the time of the negotiations, however, you were on the Board? A.—Yes.

Q.—And you were interested with your co-directors in the management of the affairs of the Provincial Trust Company? A.—Yes, but not in this particular matter that I speak of.

Q.—What matter are you speaking of? A.—That is which led to the members of the Executive Committee of the Provincial Trust Company requesting me to take up the purchase of the stock and the sale of the company to some other company or some other individuals.

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Q.—Then do you say that your first introduction to the matter was at the instance of members of the Board and of the Executive Committee of the Provincial Trust Company? A.—Yes.

Q.—That was your first connection with the matter? A.—Yes.

Q.—And I understand you to say that in their approaching you you were not filling the capacity yourself of a director? A.—No.

Q.—Will you just explain that a little. Your co-directors came to you? A.—Yes.

Q.—And do you say they did not come to you as a director? A.—No.

Q.—Why do you say so? A.—What I say is this, I was not on the Executive Committee of the Provincial Trust Company. There were several gentlemen who were on the Executive Committee. They had obtained an opinion from Mr. Blake in regard to a certain matter which I think you will not want to inquire into, which led them to desire to procure control of the Provincial Trust Company and to wind it up or transfer the business.

Q.—Do you or did you then disassociate yourself altogether in relation to that transaction from your directorate? A.—Oh, yes, there were only a few of the directorate interested in that transaction.

Q.—Don't you think the whole Board of Directors was interested? A.—No, and did not at the time.

Q.—It was not a transaction that involved the interests of the company at all, do you say? A.—Well, it did not involve the interests of the company as I understand it, except in so far as it involved the interest of the members or certain members of the Executive Committee.

Q.—Why did they want to get control? In order to increase the efficiency of the management? A.—No.

Q.—In order to benefit the company? A.—In order to benefit the shareholders and in order to free themselves from liability.

Q.—“Benefit the shareholders?” I should call that benefiting the company? A.—Well, I didn't understand you.

Q.—The transaction that you were consulted about involved the interest of the shareholders of the company? A.—Yes, certainly.

Q.—And do you still say notwithstanding that, that you were disassociating yourself from your capacity of director in approaching and deal-

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(Matthew Wilson, Ex'd.)

ing with that transaction? A.—Yes. Perhaps I misunderstood you or you misunderstood me. I meant that in dealing with that transaction I was acting as agent or solicitor and not as director.

Q.—That is the way you were acting? A.—Yes.

Q.—You were then, as you said, not concerning yourself in your capacity as director with the transaction, but in your capacity as agent for certain shareholders or certain directors? A.—Yes. Of course, don't misunderstand me, I was a director at the time.

Q.—I know you were a director. Then what was the thing that you were consulted about? Give us that a little more carefully? A.—How best to stop the business of the company and wind it up, in the interests of the shareholders, or to transfer it to some other company or institution.

Q.—How best to wind up the Provincial Trust Company, or how best to transfer its business to some other company or institution? A.—Yes.

Q.—Where were you consulted? A.—In Toronto.

Q.—And who were the gentlemen who consulted you? A.—There were Mr. John Flett, Sheriff Widdifield, Sir Richard Cartwright. I consulted him in Ottawa. S. F. McKinnon. It is pretty hard for me to remember these names. I have not refreshed my memory. I think Mr. Reuben Millichamp. I cannot recollect any more names, but I think that those represent about the men. I may be one or two out.

Q.—Where did they consult you? A.—In the same place where the Union Trust Company afterwards opened their office.

Q.—What office was it then? A.—It was then the Provincial Trust Company's office.

Q.—Then they consulted you in the Provincial Trust Company's office. How did you come to be there? A.—Except Sir Richard Cartwright. As I said I went to Ottawa to consult him.

Q.—How did you come to be in the Provincial Trust Company's office? A.—They sent for me.

Q.—How do you mean they sent for you? A.—I don't know exactly how it was. But no doubt by letter, or it may have been by telegram.

Q.—Do you remember? A.—No, I do not.

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Q.—Have you any letter? A.—No. I have got every paper that my clerks could find in connection with the matter, and they are all here in my bag, but I am satisfied there will be no such letter, because I would not keep such a letter.

Q.—Did you sometimes attend meetings of the Provincial Trust Company's directors? A.—Yes.

Q.—Were you here about a directors' meeting? A.—I was here from time to time about directors' meetings and I think I was a fairly regular attendant. Of course they were held very seldom.

Q.—Do you undertake to say that you were not in Toronto on the business of the Provincial Trust Company, among other things, when this matter was first broached? A.—I think I could almost say with certainty, yes, because I, as a director, did not know anything about it. You see that company was run by having a large directorate and then an executive committee to do the business. Well, the larger directorate met, according to my recollection, seldom. The executive committee would meet—

Q.—As frequently as the business demanded? A.—Yes, that is about it.

Q.—Is it saying too much, before passing from that, to say that the Provincial Trust Company was not justifying its existence? A.—Well, I don't think that would be saying too much. At all events that would be my opinion.

Q.—And you were of that opinion at that time? A.—I had come pretty well to that opinion. I cannot say that I was of that opinion at that time.

Q.—But you were on your way to that opinion? A.—Yes, I had \$5,000 in it for a long time, and I think I had never received a cent of income or dividend from it, and, as you say, I was on my way to that opinion.

Q.—To the opinion that the company was about at its finish? A.—Well, not that; I should not say that; there was nothing like insolvency or anything of that kind, but as you say, as managed it was not justifying its existence. It ought either to stop or to be managed better; that was my opinion.

Q.—Then the meeting between yourself and these gentlemen took place, and will you tell me what took place at that meeting? A.—It is a long time ago and I will not pretend to be accurate, but what took place at

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that meeting was, in effect, to ask me to see and do the best I could for the shareholders, and we discussed to see what the stock was really intrinsically worth and then I was given authority to set out and do what I could.

Q.—First, ways and means were discussed, the best course to take in the interests of the shareholders was discussed? A.—Yes.

Q.—Did you come to a conclusion about that at that meeting? A.—Yes, I came to a sufficient conclusion to enable me to advise them—if I could do it, I did not know whether I could carry out what I wanted to do—but I made up my own mind what I would try to do.

Q.—And what was that? A.—That was not to wind up the company, but to transfer it to some other institution.

Q.—Then the sense of the meeting was that you should see what you could do in that direction? A.—Yes.

Q.—Then what did you do? A.—I went to different parties and discussed the matter. I think I discussed it myself with a view of turning it, I think first to the Canada Life. I discussed it with Mr. Bruce.

Q.—What were you to turn over to the Canada Life, the Trust Company as a trust company or its assets as assets? A.—As a trust company. I do not mean to say that that was what I was to turn over to them, but that is what I wanted to discuss with them.

Q.—You wanted to discuss with whom? A.—With Mr. Bruce.

Q.—With proposing purchasers the handing over of the Trust Company? A.—As a going concern.

Q.—As an asset of the purchasing institution? A.—Yes. Well, then I tried to get into negotiation with the Bank of Montreal and I got letters of introduction to them at Montreal.

Q.—I do not want to make too long a story of these negotiations? A.—It resulted in my getting down to work with Mr. William Laidlaw.

Q.—How did you become introduced to him? A.—He had been writing to me before, I think some months before. He wrote to me, I think, early in the summer of 1900 he had the thing on his mind then I think I went to him.

Q.—What was he writing to you about? A.—About trying to buy my stock and the other stock or to sell

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out stock of clients that he represented.

Q.—You say that he was representing certain clients. Do you know who they were? A.—No, I do not, and did not at the time.

Q.—And he was trying you with a buy or sell proposition? A.—Yes, a feeler.

Q.—Have you that correspondence among the papers you have here? A.—I think it is.

Q.—Will you turn it up for me? A.—(The witness produces certain documents.) This is marked "Private and confidential" by Mr. Laidlaw and I am perfectly content to let you see it, but I do not think it ought to be made public.

Q.—We will see. I will not make it public at all events without a ruling. I may have the date noted apart from that altogether, may I? A.—Yes, certainly.

Q.—It is dated the 30th July, 1900, a letter from Mr. Laidlaw to yourself. And a letter of the 2nd August, 1900, similarly marked, from Mr. Laidlaw to yourself? A.—I may say that may not be the earliest. I just happened to notice those.

Q.—I see letters of your own are referred to? A.—No doubt I would answer each letter which he wrote.

Q.—There is a third letter of the 27th of July, similarly marked. If you look at it, it seems to open the correspondence? A.—Yes, I would think that that was opening the correspondence. I feel quite sure that when you read those you will see they have no bearing.

Q.—I will pin these together, as they are of one class. I hand them back to you and I ask you to look at them yourself and see whether you make an alteration in your statement as to what Mr. Laidlaw was seeking. Look at the letters and see if you modify what you have said? A.—I have not read these I may say.

Q.—Read the 1st letter of the 27th July? A.—Yes, that confirms what I say, this first letter, that it was that correspondence which led me subsequently to go to Mr. Laidlaw.

Q.—That is not exactly what I asked you. The purpose for which Mr. Laidlaw had opened the correspondence with you, you stated to be a certain thing, that he was feeling you either to buy or sell? A.—Yes.

Q.—Will you change that a little? A.—No, I think that is clearly what his meaning is in this letter.

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Q.—Do you think he was offering to buy? Is that the meaning? A.—Well, I would read between the lines, Mr. Shepley, that it would be that.

Q.—Oh very well, if you read between the lines. I will take that answer and for the present we will let that lie in abeyance, and I shall respect the confidence if I properly can do so. Then, having had this previous correspondence which came to nothing, I suppose, your mind reverted to Mr. Laidlaw after the conference which you had had with the executive committee? A.—Yes.

Q.—And did you go to see him or commence correspondence with him again? A.—I think I went to see him, speaking from recollection.

Q.—Could you fix the date of that or have you a docket from which you can fix that? A.—No, I have nothing.

Q.—You made no entries in the matter? A.—No, I would not make an entry of a matter of that kind.

Q.—You did not, at all events? A.—No, not that I recollect. I have no docket in which I would make such an entry. I never made such an entry in my life.

Q.—I thought that you were giving us to understand that you were being consulted by the executive committee in your professional capacity? A.—Yes.

Q.—Do you not make entries when you do business in your professional capacity? A.—Not in that way.

Q.—If I went to see you and consulted you as to what I was going to do about a farm that I don't own and you were going to charge me for it, would you not put some entry in some docket? A.—Yes, no doubt I would.

Q.—And if I wanted to consult you about selling some shares of stock would you not put it down in your docket? A.—No, I would not. I would be more apt to put it down in a diary that I carry and then, when the stock sale would be completed and cleared up I would make an entry of the whole thing.

Q.—Then where do you draw lines between non-docketable and docketable entries? A.—Well, I think all entries for which you ultimately make a charge will be entered in a docket before you close the matter up, but suppose a man came to me representing some company in the city here to-day and asked me if I could not in-

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terest myself and sell that company, I would never think of going to my office and making an entry in my docket then. I would put an entry in a diary I would have in my pocket, or something of that kind, and in this particular case my recollection is that I put an entry in some little books that I carried in my pocket that I got for the purpose, but whether I entered right at the start or not I do not know, until I look.

Q.—Perhaps you will find those entries and they may help us? A.—The first entry that I find would, no doubt, be subsequent to that time I speak about. It is on the 19th February, 1901.

Q.—May I see the entry? A.—Certainly.

Q.—This is a sort of diary in which you keep, apparently, a running account of where you go and what you do? A.—Yes, that was only in connection with that particular matter. Because in connection with it I foresaw that I would have to travel all over the Province, backwards and forwards, and I just kept a little book that I could put in my pocket.

Q.—Is this book concerned with that matter, only? A.—I believe so. It may have other things in it, but not that I recollect. Of course I have not opened that book for years. I came out of the Court yesterday and had them bundle everything together and I came right here.

Q.—Then this will probably be of some utility to us. I will have this marked (Exhibit 576.) Is that the only book now in which you have entries of this matter? A.—No.

Q.—This is a second book in which it is continued? A.—I am not sure of that, but they both have entries in regard to the same matter.

Q.—I will have this marked as well, (Exhibit 577.) Your entries in this book commence with a retrospective entry, do they not? A.—I don't know. You can judge that as well as I. I don't recollect it.

Q.—I am not sure, but you will know your own style better than I, is that intended for an entry made at the time or to be a recapitulation? A.—I would think that this first entry would be, as it were, retrospective as between the 19th February and the 25th February. I would judge that just by reading it; not by recollection.

Q.—That is the way it struck me, but I did not know what the facts might be.

Q.—Now, at this time, the 19th February, you commenced to make

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these diary entries and from that time down we will probably get a pretty consecutive account of your dealings with the matter? A.—I think you will, but I am not sure. Of course it will be very condensed.

Q.—No doubt. At the time when you met Mr. Laidlaw, I mean the time you thought of him as a likely person and went to him, what did you understand that his position was at that time? A.—I did not know. I had no idea.

Q.—Did you ascertain from him? A.—No, I did not.

Q.—What did you ascertain from him? A.—I ascertained from him that he represented clients who were willing to consider the matter.

Q.—To consider the matter of buying? A.—Yes.

Q.—Go on? A.—That was all, so far as the party he represented. I did not get from him the slightest idea, although I tried to get it, for whom he was acting.

Q.—Would it be before or after you commenced making entries that you saw Mr. Laidlaw? A.—I think quite a while before.

Q.—But it was after you had received instructions from the executive committee? A.—After I had been requested—of course, remember my first instructions from the executive committee were merely to find out, to see what I could do, and I would come back to them and advise them, and then we would set out in a definite course of action, with definite instructions.

Q.—This first entry looks very much like the instructing entry? A.—That may be.

Q.—And if so then the instructions took place on the 19th February and the interview with Mr. Laidlaw would be later? A.—Pardon me, I spoke of instructions as something that I would get from them after I had set out and satisfied myself what I could do.

Q.—And there are no entries made prior to that? A.—No, I don't think so. I would not expect that there would be.

Q.—You would not expect that you would make entries of your travelling about for the purpose of finding out what you could do? A.—No, I would not expect so.

Q.—Did you go to Montreal in connection with it? A.—No, I did not. I got my letters of introduction to go to Montreal, but I did not go, be-

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cause in the meantime I fell in with the other.

Q.—That is, you fell in with Mr. Laidlaw? A.—Yes.

Q.—Then you fell in with Mr. Laidlaw very early after your instructions? A.—Yes.

Q.—Now, if you will look at this entry—because I want to get some starting point—read it through yourself and then tell me at what stage you were in your negotiations with Mr. Laidlaw when that entry was made, or on the 19th February rather? A.—I would think, just from reading the first page of these entries, that my introduction to Mr. Laidlaw would be possibly between a week and a month prior to that, but, of course, I am speaking of five years ago.

Q.—Then, what I asked you was, will you tell me as nearly as you can at what stage the negotiations had arrived when the 19th of February came? A.—Only to the stage that I thought I could do business with Laidlaw.

Q.—And you did not, at that time, know who he was or who was behind him? A.—No, I tried to find out, but I did not succeed.

Q.—You had not progressed to any length with the negotiations, the discussion of terms or anything of that sort? A.—No.

Q.—Well, then what shape did the negotiations between you and Mr. Laidlaw finally take? A.—You mean the result?

Q.—Yes? A.—It was that we were to get in the stock, to pay for the stock a certain price.

Q.—When you say “we” whom do you mean? A.—I mean myself. To pay for the stock a certain price, to turn enough stock over to Laidlaw to give Laidlaw the control of the company and then he, or those whom he represented, could assume it, appoint their own directorate and control the company. Now, when the executive and I were discussing it previously we went into the assets of the company and we came to the conclusion that the assets were worth something in the neighborhood of 60 cents on the dollar if carefully realized.

Q.—That was a domestic discussion? A.—Entirely.

Q.—And not a discussion with Mr. Laidlaw? A.—Oh, entirely. If not carefully realized they would not be worth anything near that. If the company would be wound up in the ordinary way I did not think that

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we shareholders would realize more than about 25 cents on the dollar. I think that I first got an offer from Mr. Laidlaw running up to near 60 cents on the dollar, if not quite; I think possibly it was 59 cents that we got him up to in the first negotiations and that ultimately we got him up to 65 cents on the dollar. That is my recollection.

Q.—Just there, take Exhibit 458 and tell me what you know of that document, if you know anything about it? A.—I recognize here a name I did not give you before that I was acting for. James Scott. I do not recognize this document at all. But it may be one that came to me in discussions such as I have mentioned.

Q.—It came to you? A.—Yes.

Q.—Communicated to you by Mr. Laidlaw? A.—Yes, almost certainly communicated to me by Mr. Laidlaw.

Q.—You may keep that during the adjournment, if you like, Mr. Wilson and see if you can refresh your memory with regard to it? A.—Thank you. If there are any other papers that you want to ask me about, if you will let me see them too, it would refresh my memory, because it is a very old matter, that I have forgotten all about, and it will need everything I can get hold of.

Q.—I think you will do very well, Mr. Wilson, if you dissect that document and look after your lunch? A.—Perhaps that is correct. If I could compare the note-books with this, I think these two note-books may help me.

(Adjourned to two o'clock.)

AFTERNOON SESSION.

Resumed at 2 p.m. October 10th, 1906.

Hon. George E. Foster made the following statement:

Your Honors, in thinking this over I have come to the conclusion to make my statement very short and to deal with only two or three matters, leaving the rest as they appear in the transaction, and chiefly with reference to the Great West Land Company. With reference to that I say this, the syndicate, that is Messrs. McGillivray, Wilson and myself, had no connection with the acquisition of

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lands in the North-West by Pope & Fowler, and no interest of any kind therein. They purchased, as they had a right to do, an option for 200,000 acres of land from Pope & Fowler, and the price they paid therefor \$4.50 per acre, (\$50,000 of the purchase price being payable in stock), was a very reasonable price, considering the quality and the situation of the lands. The price paid for lands no better in quality and not so well situated as regards railway transport at or about the same period of time was by the Eastern & Western Land Company \$6 per acre, the Ontario & Saskatchewan Land Company \$5.75, and the Union Trust Company from \$4.90 to \$5.75 per acre, and for large tracts in each case. Having acquired their lands they sold them, as they had a perfect right to do, to the Great West Land Company for \$5 per acre, taking the small advance of fifty cents per acre, or about ten per cent. advance, not in money but in stock, which could not be turned into money till all the lands had been paid for together with all expenses in interest, taxes, etc., and re-sold at a profit over and above all these obligations; that is they postpone the profit on their sale, if there were to be any profit, until every obligation was met. If there were any profits to make their stock valuable it could not be realized for from six to eight years, the land being sold on time. If there were no such profits they would receive nothing for their stock. It cannot be contended that their advance of fifty cents per acre secured in this way was an inordinate profit, nor that being paid in stock it was onerous to the company. To illustrate, I would have a perfect right to go into the North-West and buy a farm, if I found a seller, of 100 acres for \$450. I would be perfectly within my right to turn around, if I found a buyer and sell him that farm at \$500 and it would not be considered an inordinate advance, nor would my terms be considered harsh if I said to him, "If you buy this farm from me you will assume the obligation that I am under to the person from whom I purchased," and as regards \$25 on your farm to that purchaser and as regards my advance of \$50 you have not to pay either of them until you have cancelled all your other obligations and made sufficient profit out of your farm to give the money to me for my advance and to the original vendor for his.

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If you translate that from the single farm to the 200,000 acres of land the parity is apparent, and I think the deduction therefrom is equally clear.

With the 950 nominal shares of stock (representing the advance of fifty cents per acre, less than what was paid to the vendors), they purchased, as they had a perfect right to do, the charter, option rights, and good will of an incorporated company afterwards known as the Great West Land Company, and qualified certain new directors therein, using in that way 137½ of their own shares. This left 812½ shares out of which they proposed to use what was necessary to assist them in financing the company until it became self-sustaining. Messrs. Foster, Wilson and McGillivray themselves also became directors of the Great West Land Company, as they had a perfect right to do. Up to this period we had no thought of taking this proposition to the Union Trust Company. We expected to raise the amount necessary to meet the first year's payment from our own resources, aided by the use of a portion of our own stock, and in the meantime by the sale of stock to the public to provide for the second and third year's payments, by which time we were confident that we should have made sufficient sales of land to carry the proposition to a completion. As a matter of fact in these three years from that time a sufficient quantity of these lands had been sold to do this very thing, a fact which proved the reasonableness of our anticipation. About this time the suggestion was made that we should offer this business to the Union Trust Company first, and let them consider it and decide whether they cared to take it up or not. To me it presented itself in this way: Here were 200,000 acres of well selected lands situated in one of the best belts in the North-West through which the Canadian Northern Railway would soon be completed. At the cash price of these lands, \$4.25 per acre (the remaining 75 cents per acre being stock and therefore postponed until all mortgage obligations were met) the security for a reasonable advance was undoubted. We were willing to pay 6 per cent. interest, which was a good rate, and in addition to give a substantial stock bonus to the lender. The lands we believed would sell at a good advance, and thus the security would be enhanced

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and the bonus made in the end valuable. It was a proposition which we could take to any financial party or to another Trust Company, which another trust company would entertain, and upon which it could advance its money by way of mortgage and violate no rules, ethical or otherwise, governing the investment of trust funds. A great many statements have been made, if not here outside of this place, as to it being a malversation or wrong use of trust funds to invest them in this way. Trust funds can be invested in mortgage on real estate, and if we had gone to another trust company, and if that trust company had scanned our mortgage security and believed it sufficient they could have put their moneys as a loan into that real estate and taken their interest and taken a first mortgage security and would have been open to no criticism on the ground of the investment they made of trust funds, they being of course the judge as to the validity and sufficiency of the security. Why then should not the Union Trust Company have an opportunity to consider the proposition? At any rate we took it with honest intent to the Union Trust Company. We laid the whole proposition before the directors; it was considered from the point of profitable investment and from the point of the power of the Trust Company to enter into such an arrangement. Sir John Boyd and Matthew Wilson, K. C., were asked to consider the latter point and advise the Board. They did so and reported to the Board that such an arrangement was within the competence of the company. Sir John Boyd's testimony given on page 2434 reads as follows: "The only opinion I expressed was that it was competent for the Union Trust Company to enter into that in point of law, that being an outside syndicate who had acquired what they thought a valuable property presented it for the consideration of the Trust Company as a thing to be gone into jointly—I said there was no objection that I could see in point of law to do that, as it was a matter initiated outside of the company and brought to them for consideration. That is the sum total of my expression as to the law and all I think I was asked for." In his second statement he deals with the same question in this way: "I may have said to Mr. Wilson in my interview with him that it was competent for this company and this syndicate

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to enter into this joint deal, and that there might be proper compensation made if the syndicate required that as a condition, they being an independent concern and having it in hand might say the terms on which they might come in; if that was acceptable and satisfactory to all parties concerned that that might be carried out."

I do not read the whole of Sir John Boyd's testimony, I read simply the part of his testimony which referred to the legal point as he understood it to be put to him and as he understood that he gave the answer to the same, and that was all that was present to my mind when the transaction was completed.

At the Directors' meeting of June 3rd, 1903, the whole proposition was discussed and approved and in the agreement of the 22nd June, 1903, the whole matter is set out with particularity of detail. I think it well to mention just what is included in that agreement of the 22nd day of June, 1903, as that was the agreement agreed upon, as it was the agreement submitted, as it was the agreement ultimately passed and ratified, as it was the agreement which went into the records of the Union Trust Company and has been there from that day up to the present. In the first place the contracting parties are all set out. "Between the Hon. George E. Foster, Lieutenant-Colonel John A. McGillivray and Matthew Wilson, K.C., hereinafter called the owners." That is plain, three men known to them all were the owners. "The Union Trust Company, Limited, hereinafter called the banker, and Dr. Oronhyatekha, Sir John Alexander Boyd, the Hon. Robert Rogers, George Percival Scholfield and the said Foster, McGillivray and Wilson, hereinafter called the shareholders of the third part; and the New Ontario Farm & Town Sites Syndicate, Limited, hereinafter called the Company." All possible participators in this matter were set out in the agreement which was discussed and which was ultimately ratified. It goes on to show that the owners had procured from various parties certain options in lands as appears by the agreements which are mentioned one after the other in the document itself, which were filed with the document, and which have been in the hands of the Union Trust Company from that day until this. It

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goes on to recognize and name the agreement in which the stock distribution amongst the parties to whom it was to be distributed was agreed upon, and it actually spreads upon the agreement itself the name of every person to whom the stock went and the amount of the stock which was apportioned to him. It then goes on to bind the banker to make the advances, to give him the option of treating it as a loan or of taking shares for these advances—all set out with particularity and signed. Now it cannot be said in the light of that that Mr. Wilson, Mr. McGillivray and myself undertook to put anything through in a secret or under-hand way. If the directors who sat on that Board entered into that discussion and knew those facts or did not know those facts—how they did not know them I cannot tell, it was their business to have looked into the documents which were set before them, and placed on record, and made themselves acquainted with them—I am willing to take my responsibility as a director fully and unreservedly, and I want all other directors to take just the same full share of responsibility which belongs to them, and I quote that to show that this was not done under cover, but with a particularity which is remarkable, it was all set out and was all of record in the Union Trust Company itself.

That agreement was ratified by the directors unanimously, without pressure by the syndicate, and with the full approval of the directors present who represented the Foresters. Two re-arrangements were made subsequently, one of March 26th, 1904, when the Union Trust Company decided to exercise this option to take stock for its advances, and one of November 28th, 1905, when it decided to renounce its share partnership and become sole mortgagee. Both of these actions were on the initiative and by the desire of the Union Trust Company directors outside of Messrs. Foster, McGillivray and Wilson, and were suggested and pressed by the Foresters' representatives on the Board. They were not opposed by myself and Messrs. McGillivray and Wilson. In this transaction no money was borrowed personally by, nor did one dollar pass in any way into the pockets of Messrs. Foster, Wilson and McGillivray. That is not for the benefit of this Commission who knows that, but it is for the benefit of the general public so many of whom seem

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to think that something else than that actually happened. Their stock did not come to them through and was not provided for them by, any loans made to them in any way by either the officers or the Union Trust Company. The stock owned by them and all stock paid out for the original purchase or purchased by other stockholders was placed behind the security given the Union Trust Company, for its loan, and was of no value until that mortgage was discharged and the security released to the Great West Land Company. The Union Trust Company had undoubted security for its loan, received 6 per cent. upon the same, and by the first arrangement got a substantial bonus of stock in addition. If a difference of opinion exists as to one of the conditions of the arrangement of November 28th, 1905, that does not affect the original security in the least, and it is a matter to be settled between the parties concerned thereto. The Union Trust Company has kept the books of the Great West Land Company, and all the contracts made by purchasers of its land, received every dollar of the moneys that have been paid in, and under the agreement and mortgage will continue to do so until the debt is discharged. At this date nearly all the lands of the Great West Land Company have been sold at a reasonable advance and the security of the Trust Company is absolutely safe in my opinion. Now, the ethical argument has been pressed. I do not object to it. Let it be pressed equally on all directors, for all are equally responsible. I am not however ready to subscribe to a general dictum with reference to this matter. I think that it is well to seek beneath nomenclature often for the reality which is named, and in this transaction it is best for us to find out what actually did occur than to make suppositions as to what might have occurred. Everything depends on the honesty of the persons who are in the transactions and upon the conditions which surround it. I admit at once the quality of the position. Messrs. Foster, McGillivray and Wilson were directors on the Union Trust Board. They were also directors on the Great West Land Company Board. Anything that a man supposes might have happened can be canvassed, but what actually did happen in this case? Were the affairs of the Great West Land Company less economically and less well managed by the fact that

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these three gentlemen were on that Board and gave special care to the management of it? No attempt has been made to prove that it was not. In point of economy, prudence, any lines you wish to take it, can any one find fault with the management of those gentlemen as an Executive Committee of the Great West Land Company in the management of these lands? Have we been extravagant? For three years the sum of \$180, an average of \$60 per year, has been paid out for directors' fees; \$900 has been paid to the President of the company; not a dollar has been paid in travelling fees or other expenses personally to any of the directors, and every other dollar of expense has been supervised by the Union Trust Company and is open to the inspection of any gentleman. The lands have been administered honestly, not one dollar of money from these lands has passed into the hands or into the pocket of any one of these, or any director of the Great West Land Company, impossible that it should have done so; and to-day under their management the land has been practically sold, and the result which I have attempted to show this morning has been reached, whereby the Union Trust Company comes out perfectly intact with its interest paid and secured, and, if it still has a claim on that bonus stock, with its prospective profits so far as that is concerned yet to be ascertained. Mr. Wilson, Mr. McGillivray and myself are neither looters nor prospective robbers; we each have a character and it has been built up so far as I am concerned in a pretty white, fierce light in this country for the last fifty years. It would be the foolishness of all foolish things if after my history so far I were to come to the Union Trust Company or to the Foresters with any desire to play the sharp or to loot their treasury. From the time I gave my services to this date, services of five years' standing, services as honest and as effective as I ever gave in any other five years of my history, not a penny of their money has gone into my pocket wrongfully, and not a dollar of advantage has come to me through any prospective or actual use of their name or my connection with them. If Foresters are taught to think that their funds have been looted by these three men, Foresters may take my assertion that there is not a word of truth in it. Now, play has been made upon this circum-

stance: "It seems a Doctor Jekyll and Mr. Hyde," so says some one, the three directors in one company and three directors in the other, signing the papers in one, signing the papers in the other. In the Great West Land Company these three gentlemen appear to have done all the work. Business men sit around these Boards, and business men sit in these chairs here, and business men know that with almost every company in the end it comes down to the management by a very few of the resident, faithful directors. Our directors were scattered from New Brunswick to Winnipeg, those who were in this city, being ourselves and Mr. Scholfield, who took an interest in this company, Mr. Scholfield, a very busy man but always either present or consulted, and the work fell upon the three directors that have been named. Was the work well done, honestly done by these three directors? If so business men will make their judgment upon that and not on the fact that in the working out in the last analysis it came down chiefly to these gentlemen who were on the directorate. One word more with reference to duality on Boards. I am not going to subscribe to either one theory or the other, either first that it is absolutely wrong and improvident that there shall never be what you may call partial representations on two Boards. I conceive that business men will be of the opinion that a vast proportion of the best business of the world to-day is carried on in and by companies in which this distributed representation is found upon the directorate of the companies that are interested. It is in some cases absolutely better that it should be so. It is liable to abuse if it is abused, but after all I say in my opinion there is no canon that can be laid down, and that each circumstance must be taken on its own merits and judged thereby. I do not go any farther into the ethical question, and I leave it at that.

Now I wish to take up one other thing. The land policy as developed in the work of the Union Trust Company. It has been said that we were dabbling in lands, that we were speculating in lands. I would put it in another way. The land policy of the Union Trust Company was undertaken after full discussion, it was a policy to which I was favorable and which I believe I brought before the Board. It was thoroughly discussed

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time after time. We discussed the policy not in the light of people who had a little money which might be quickly called back into other channels and thereby leave an investment in lands imperilled at a certain time; we approached it in the light of an institution which had funds which it was interested in placing on long investments, and which did not need to be recalled every now and then. On that basis we went into the land buying investment in the North-West, not dabbling in lands in a speculative sense. To one who studied the North-West and knew the history of the United States Great West there was nothing more patent than that the lands in our North-West, well selected in good belts with a proper regard to railway facility and railway transport, being in the birth you may say of their value, and with the opening prospects of the North-West, and the immigration that was necessarily going in there that there could be no better investments for funds for long periods than judiciously buying well selected, well situated western lands and holding them for a rise, and your Honor I do not think you will be one to say that it is a wrongful thing for an investment company to invest in real estate and to sell it again on a rise in the property if they can do it. To listen to some talk you would think that if I bought a horse to-day for \$150 and sold it out to-morrow for \$175 without having polished off that horse or added a single ounce to his weight that I was making a profit I had no business to, or that if I bought a piece of real estate on Yonge Street to-day and paid so many dollars per foot that if I turned around and sold it to-morrow at \$1 advance without my having put any improvement upon it that I was guilty of depriving somebody of what he had a right to, and making an inordinate profit for myself. The same canons of fair business judgment must be applied to the Union Trust Company, and if so applied I do not think that people will say that we were dabbling or speculating in those lands. Now, if I told tales out of school I might say I did not see at all times just at one with some of my co-directors with reference to realizing upon these lands. I would not have hurried to sell out these lands, I would have leisurely disposed of them, and through our own instrumentality of the Union Trust Company. Other directors have just as good a right to their ideas that it might be probably

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the best time to dispose of them now and quickly, and that view carried. It has carried and resulted in a profit. If my view had carried I believe it would have resulted in a larger profit, but that is not any condemnation of what the directors as a body did, and in which I fully agreed of course. Those lands that were bought have paid us in at present a profit of some \$200,000, and before they are all disposed of will have eventuated in a profit still greater. I place that unhesitatingly before this Commission or before business men as a method of investment, and I have no hesitation at all in accepting their verdict upon that. The same applies with reference to the timber limits in British Columbia. No man who looks at the range of timber possibilities rapidly diminishing as they are in the United States of America, and watches the vast plains ready in our own country to be filled up with people, every householder of which will require lumber, and looks at the well preserved and splendid timber in the British Columbia section of our country would hesitate to say that if well selected limits were bought to-day and if nothing else were done, were held simply as an investment that they would be a paying and secure method of investment. As it has turned out even disposed of quickly as they have been, they have been disposed of at a profit of about \$75,000 as regards those alone. Then to those people who reading the headlines of some of the newspapers, may have an idea that all the resources of the Foresters have been dissipated I want this statement to go side by side, if it possibly can, to rest their souls in peace, that in both these transactions they have made a large and substantial profit and their funds are thereby so much the better. I might traverse a good many of the points that have been brought up. In deference to your own pressure for time and your own patience I prefer to let them stand as they appear in the evidence, not with the idea that the unthinking multitude will ever go to work and pick them out, but I say they are to be picked out if it absolutely becomes necessary in any discussion that may arise.

One last word in this statement, that is with reference to the Union Trust Company. I am not so vain as to say that all it has ever done has been done because I have been

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Manager there, neither on the other hand do I want it stated that for every one of its faults that have been found the Manager alone is to be criticised and the directorate are to be left by themselves. Let us take it equally with all our own shares of the responsibility, and let me make this statement, that whereas I as Manager and my co-directors as directors took up this trust company in 1901, unformed practically, without capital, without agencies for business, when I and they left off our work in 1905 this statement may serve as an index of the progress that had been made. The charter of that company was granted on August 7th, 1901. It had four months of its beginning work in that year. In that year it made a profit on its capital of \$18,787.64, or 8 per cent. on the paid-up capital. Its assets amounted to \$757,007.85, and its reserve was \$200,000. The year ending December, 1902, the profits were \$39,067.19, or 9 per cent. upon the average capital. Taking the broken period of four months and adding it to that year the total profit was 9.76 per cent. upon the average paid-up capital. At the end of that year the assets were \$1,984,132, and the reserve \$225,000. At the end of the year 1903 the profits were for that year \$68,727.85, an average of 8 per cent. upon the paid-up capital. The assets had gone up to \$3,077,596, and the reserve \$250,000. At the end of 1904 the profits for that year, net profits, \$94,057, an average of 7 per cent. upon the paid-up capital. The assets were \$4,361,080 and the reserve \$280,000. At the end of the year 1905 the profits net were \$122,338 for that year and an average of 6.2 per cent. upon the average paid-up capital. The assets were \$5,874,508, and the reserve had grown to \$370,000. This for the last two years, taking into account that during those years the large investment in the Alexandra Palace was being made and had not become productive, and that the large investments we had made and were making in lands had not become productive to the point of giving us either interest or an advance on the capital that we had invested in it, if the proper proportion of the income from those two investments could have come into those years the average rate per cent. of the profits on the paid-up capital would have run up close to ten per cent. for those two years. Now I challenge the Inspect-

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ors, Government or otherwise, to go through the securities of the Union Trust Company and specify the losses that we have absolutely and actually made. Of course we have the advantage of being in the first years of our existence, and the losses are not cumulative and would not be so many, but the proportion of losses in that property is infinitesimally small. Allusion has been made to the disparity between the price of stock and debentures and bonds as bought and as they were on the 31st December, 1905, and that is not a very safe way of valuation. Suffice it to say just here that while we put our stocks in at cost price we put in all of the 200,000 odd acres of land that we had bought at the cost price of those lands and interest added without giving any account or adding anything for the income of those lands in that two years during which you had been purchased and advancing, and the income in those lands was from 40 to 100 and over per cent. That I think is a statement which might have its effect in calming the agitation, if there be any, that during the period of my work and the work of my co-directors which we have given with cheerfulness and all the energy that we possess anything else that has taken place in the investment of those funds but square, honest profitable work. I thank you, Your Honor, for allowing me to make this statement, and I do not think I shall leave this box without acknowledging your unvarying courtesy to me; though I have sometimes had the audacity to question your ruling it has been on a question of principle, and nothing personal of course. I do not think I ought to leave either without acknowledging that so far as Mr. Shepley is concerned he has treated me with unvarying courtesy, and all who have been associated with him, the officers and others, have been more than kind.

Examination of Matthew Wilson, K. C., continued.

MR. SHEPLEY: Did you look at this during the intermission, do you recognize it at all? A.—No, but I do not mean by that that I did not have it at the time it bears date, although the date seems a little earlier.

Q.—You do not seem to have come into it until about February of 1901? A.—I would not say about what time, but some time in the early part of

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1901, possibly January I would have thought.

Q.—I think perhaps we can ascertain pretty nearly by the correspondence. This document which you were looking at and which was a form of an offer to the shareholders or a majority of them of the Provincial for their stock unsigned is identified by a letter to Dr. Oronhyatekha of the 10th December, 1900, from Mr. Kappele, who was Mr. Laidlaw's partner, was not he?

Q.—In which letter he says: "We enclose you a copy of formal offer which it was proposed to make, which speaks for itself"—you were not in the matter so early as that? A.—I think I told you that I did not think I had met Mr. Laidlaw so early as that. This letter bears out my recollection.

Q.—At that time Mr. Laidlaw seemed to be dealing directly with one of the directors, Mr. Scott? A.—I don't know.

Q.—The letter says: "The person active at the present time is Mr. James Scott, and he has expressed his willingness to deal on behalf of the company on the basis of your assets and liabilities," so that the matter appears to have been considered for some time and been the subject of negotiations between Mr. Laidlaw and Mr. Scott before you were approached upon the subject? A.—Apparently without my knowledge.

Q.—You were telling me what the arrangement was that you finally came to with Mr. Laidlaw, was that reduced into writing? A.—I don't remember; I should think that it likely would be though.

Q.—Have you anything among your papers? A.—No.

Q.—Have you any correspondence between yourself and Mr. Laidlaw among your papers? A.—No, I would not have, because any matters of contract of that kind were for a reason which I am willing to give you subsequently handed up by me to the Executive Committee before I went upon the Union Trust Company Board, just at the time I was going upon the Union Trust Company Board.

Q.—Let me take that little book of yours, commencing in February? A.—I may say since the adjournment I have been looking at that book, reading it for the first time since it was filed away along with the other papers, and I think that I would trust more to the memoranda in that book

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than I would to my own recollection; I might have forgotten things which the books will show are recorded.

Q.—What the first entry says is this: (Reads from Exhibit 576) "At Directors' meeting first prior to shareholders' meeting, 19th February, 1901, and again after it, having been requested to consider situation, state of company, and business and methods of winding up, and securities, etc., etc., and to prepare any necessary documents, forms, etc., to be considered at an adjourned meeting on March 25th, with any replies to letters." "Thursday, Friday, and part of Saturday going over statement, estimating assets, and considering as to mode of transfer, etc., and liabilities, special letters, to Jenkins, Colwell and McDugald"—who were those three— A.—Mr. Charles Jenkins, one of the oil men of Petrolia; Mr. Colwell was a gentleman to whom I wrote as the representative of Sir Richard, that is Sir Richard spoke to him and corresponded with me. McDugald I think must have been either a manager or a past-manager, but I am not sure whether that was the McDugald, I think it is, likely it was, a son-in-law of the late James Bethune.

Q.—In what capacity were they concerned in the matter, Jenkins, Colwell and McDugald? A.—Jenkins was a man whose judgment we would depend upon a great deal.

Q.—Had he anything to do with the company to start with? A.—Yes, they were all stockholders.

Q.—You were writing to them in the capacity of stockholder, Colwell being the representative of Sir Richard Cartwright? A.—Yes. Do not understand that I am saying that Colwell was a stockholder.

Q.—Colwell was the representative of Sir Richard Cartwright who was a stockholder? A.—Yes.

Q.—It was in that capacity you were writing to him? A.—Yes.

Q.—It goes on: "Preparing form of offer for Laidlaw, agreement for Executive, six members to make letters to be signed by Executive and by Laidlaw and statements to be sent out later to Laidlaw and McDugald"—I do not know that I quite understand that? A.—I think I understand it but I am not sure that I do. I think it means this, that I was preparing to put in writing things that they should sign so that there would be no misunderstanding.

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Q.—What do you mean by things in writing that they would sign? A.—For instance that Mr. Laidlaw should agree to give so much upon such terms for the stock, that the Executive should agree to get in so much stock and transfer it to Mr. Laidlaw. I do not mean to say that at that date we had got up to that point; but it would be something after that nature I would expect from that entry. I may say I have no personal recollection of what it was but I have no doubt as to the correctness of that interpretation.

Q.—At that time apparently Mr. Laidlaw and you were if not in direct communication at any rate in touch? A.—Yes.

Q.—Because it says “Preparing form of offer”— A.—Yes, I think Mr. Laidlaw came on more occasions than one and discussed the matter with myself and with two or three members of the Executive who were the active parties at the Provincial Trust Company office. In the first place Mr. James Scott was the chief actor with Mr. Flett, if I remember rightly, and then Mr. Scott became ill, and when he became ill Sheriff Dr. Widdifield took his place.

Q.—And I see you went immediately about the business of getting options upon the stock from the entries in this? A.—That must have been after we had agreed upon terms.

Q.—I think not, I see your entries on the 25th and the 26th and the 27th all contain references to getting options, the first one you got apparently was an option from Mr. Bruce? A.—That explains it. Mr. Bruce was one of the parties with whom I was negotiating and I wanted to see upon what terms he would be willing to give up his stock. He had gone into the matter somewhat carefully, and I would want to get a starting point, and I have no doubt I talked to Mr. Bruce about that and probably got that before I set out on the general campaign to get stock generally.

Q.—What did you do with the options you got? A.—I think they were all handed over, they were either handed over to Mr. Laidlaw, I think, or they were handed over to the Executive, that would be in the final closing up.

Q.—We will just take the correspondence between Laidlaw and yourself so far as I have it here and examine it. On the 25th February Mr. Laidlaw wrote you to Chatham saying: “I have at the request of in-

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tending purchasers examined the provisions of the charter and the list of assets of the Provincial Trust Company,” etc. (Reads down to the word “investments”)—do you remember that letter? A.—I remember it when you read it.

Q.—You had not it in your mind before I read it? A.—No sir.

Q.—At that time can you say, take your book to assist you if you need it, what options you had at the time you received this letter. A.—I would think the probabilities are I had none unless it was Mr. Bruce's.

Q.—I think you got two on the same day, another one besides Mr. Bruce's? A.—I don't think I had any other.

Q.—What was the option you had from Mr. Bruce? A.—I do not recollect; you mean how much he was to get?

Q.—Yes? A.—I could not say that.

Q.—Apparently on the same day, after you had separated— A.—I think it would probably be 60 cents.

Q.—On that day you had a discussion with McGillivray and Laidlaw, in what capacity was McGillivray there? A.—I think that McGillivray was one of the Executive, but I am not sure.

Q.—You think he was a shareholder and one of the Executive? A.—I think so.

Q.—You were empowered by the Executive to do the bargaining, why was he there, why did you understand he was there? A.—Oh well, although I was empowered to do the bargaining I was skipping backwards and forwards with the Executive all the time.

Q.—Were not you aware that Mr. McGillivray's stockholding was stock held in trust for the Foresters? A.—No sir, I did not know that.

Q.—You did not know that at any time? A.—No.

Q.—Do you remember the discussion that took place between McGillivray, Laidlaw and yourself? A.—No.

Q.—“Letters, agreements, etc”—what letters and agreements have you in mind, can you tell me? A.—No, I could not, it is too long ago. No doubt letters and agreements concerning this matter, no doubt in the world about that, but exactly what they were I could not tell at this stage.

Q.—And you have not them? A.—No.

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Q.—Mr. Laidlaw wrote you on the 26th saying: "I have considered your report from the Executive Committee and from explanations of the investments and if the Executive Committee will give the personal guarantee which you have promised and the transactions can be carried out without any further delay I will advise my client to increase the offer to 65 cents on the dollar on the paid-up capital of the company"—and that was the final arrangement so far as the price is concerned? A.—Yes, that brings that to my recollection.

Q.—"I understand the paid-up capital to be \$113,950," etc. (reads to the words "to a final conclusion.") Does that bring the interview to your mind at all? He says he makes this concession at your urgent request? A.—Yes. I thought by that first letter he was bearing the stock and I was pressing him to a higher offer and finally brought him to increase the offer to 65 cents on the dollar, and that is what he says there.

Q.—Of course you will see my clients cannot get a dividend until the impairment," etc. (Reads down to the words "final?") A.—Yes.

Q.—That was true, that the capital was impaired, that the statements showed the capital to be impaired? A.—I have no reason to question it. Of course he was making the stock as black as possible and I was putting it in the other light at that time.

Q.—On the 26th February you were still in Toronto, you discussed matters with Scott & Flett and "went over the terms of my engagement," it looks like—what does that mean? A.—Possibly that would be the terms of my engagement for getting up the stock, how I was to be remunerated?

Q.—Was there an engagement in writing? A.—No, I think not.

Q.—What were the terms of your engagement? A.—The first terms, I am speaking only from recollection like I would speak from recollection of what I got paid for a brief five years ago. My recollection is I started out with an arrangement that I was to be paid \$40 per day and my expenses, that that arrangement was to get in the stock sufficiently to get control of the company to pass that over to Mr. Laidlaw or to his nominees, and then let them work out the balance in the way of getting control, that that arrangement was changed whereby I was to get \$25 from my client for each day, and Mr. Laidlaw

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for his client was to contribute a lump sum of \$1,000; that I then was not only to get the control of the company but was to use my utmost endeavors to get every stockholder so that there would be no stockholder outstanding that would likely raise trouble in the formation of a new company. That is speaking just from my recollection.

Q.—You became entitled to remuneration from those who had originally been your clients and also to remuneration from Mr. Laidlaw? A.—Yes.

Q.—How did that come about? A.—That came about by reason of Mr. Laidlaw wanting me to get more than my clients were willing I should undertake to do.

Q.—More than your clients were willing you should undertake? A.—Yes. Perhaps I should not put it that way, more than my clients were willing to undertake, that is he wanted me to get the whole of the stock; my client said no, our only understanding was to transfer over to you a majority of the stock.

Q.—While you were on the job for your clients you were to do a little more and try and get it all, you were not necessarily to get it all, but you were to try to get it— A.—Not necessarily to get it, but I was to give up my practice and turn out and give my whole time to it.

Q.—Was that said, you were to give up your practice? A.—No, it was not said I was to give up my practice but it was said I was to give my whole time.

Q.—The next letter is of the following day: "I concur with you in the belief," etc. (reads to the words "65 cents on the dollar")—it seems you had been expressing the belief that they would all come in? A.—Yes.

Q.—And he conferred with you if they are reasonable they would do that, "It seems to me," etc. (reads down to the words "majority")? A.—That brings to my recollection another matter, I did agree to negotiate with every shareholder.

Q.—"Of course it follows from this" (reads down to the words "majority of the shares.") You did not assign yourself to get all the shares? A.—No, all I bound myself was to try.

Q.—"The understanding to accept transfer of the majority of the shares is not to relieve you from your promise to purchase all?" A.—That is right.

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Q.—There was a guarantee required from certain of the directors, do you remember that? A.—Yes, quite well.

Q.—That was a guarantee that certain assets which were scheduled would be good and sufficient for a certain sum of money? A.—Exactly.

Q.—How was that sum of money arrived at? A.—That I do not remember.

Q.—It was apparently \$94,778? A.—Whatever it was.

Q.—You do not remember how that was arrived at? A.—No, and I do not remember the amount either.

Q.—Among the assets there were organization expenses put, that of course was putting into assets something that had no business there, was not it? A.—Something that we were trying to get for the shareholders—

Q.—But it was not an asset? A.—No, but the way I put it to Mr. Laidlaw was this: if you were forming a new company you would have to go to these organization expenses, and therefore allow our shareholders something for the organization expenses.

Q.—The guarantors seem to have been Flett, Scott, McGillivray and Barber—do you remember how that was, or why they were the only guarantors? A.—No, if you had asked my recollection, my recollection would have been that there were more guarantors than that. I think it is possible some of them may have guaranteed on a separate paper if those are the only names. Flett, Scott, Barber and McGillivray, I have no doubt about it that there was one other that I distinctly remember.

Q.—I see you only sign the guarantee as witness? A.—Yes.

Q.—You were not guarantee? A.—No.

Q.—On the same day I have this letter: "My clients understand," etc. (reads to the words "with the executive committee"—that is the arrangement to which you refer? A.—Yes, sir, that arrangement of course was submitted to the Executive Committee.

Q.—And they were made aware of it? A.—At the time, yes.

Q.—Verbally? A.—Yes.

Q.—There was not anything in writing on the subject? A.—No.

Q.—The way the transaction must have been carried out was that you were handed in the first instance \$25,000, subsequently another \$25,000? A.—I do not remember how the money came, but the money was handed to me.

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Q.—You deposited it to your own credit? A.—Yes.

Q.—And you chequed it out on the options? A.—Yes.

Q.—The course is shown by the correspondence, and it is proper your recollection should be refreshed. On the 27th February you got the first sum of \$25,000, and you signed an acknowledgment that "I have received cheque of the firm of Laidlaw, Kappelle & Bicknell for the sum of \$25,000," etc. (reads to the words "purchase of the shares"—you recollect it? A.—Yes, I recollect that when you read it.

Q.—That was the 27th February, you were then engaged by your executive committee to secure a majority of the stock if you could for the purpose of turning over to Laidlaw? A.—Yes.

Q.—And you were engaged by Laidlaw to secure all the stock if you could and turn it over to him? A.—Yes.

Q.—Do you say up to this time you had no idea as to who the real purchaser was, or had you found out by this time? A.—I do not think that I had found out, in fact I am quite sure I had not found out up to the time I had given the undertaking, but I found out about that time.

Q.—You found out about that time that the purchasers of the stock for whom Laidlaw was acting were the Foresters? A.—That is the conclusion I came to. I will give you the reason why I came to that conclusion. There was some hitch which necessitated our getting the consent of our respective clients, and I put the matter before our clients and I was brought to Dr. Oronhyatekha in order to explain the position to him and to discuss the matter with him, and immediately I was brought there I jumped to the conclusion myself that the I.O.F. intended to get the company, and it was the I.O.F.—

Q.—Did you hear then or had you heard up to that time of the original intention to form a trust company apart from buying the Provincial altogether? A.—No sir.

Q.—Did you ever hear of that? A.—No, I never heard of that until some person just within the last week or two told me that that had been the original intention.

Q.—Were not you taking any part of what was being prosecuted with the Ontario Government for the purpose of getting the matter into shape,

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had not you anything to do with the negotiations by which the charter was surrendered and a new one issued? A.—That was long afterwards.

Q.—Sometime afterwards, not very long; had you to do with that? A.—I had not anything to do with that except just to see it was done; Mr. Laidlaw himself attended to that.

Q.—I see a very cheerful letter from you of the 12th March in answer to one from Mr. Laidlaw of the 11th. You say everything has been going satisfactorily, your visit to Ottawa was in the end entirely successful, you had to go into many explanations before closing the matter, you had heard some strong statements, "I have now over \$100,000 options that I have undertaken from several others"—at that time had you pretty well canvassed all the stockholders there were? A.—No sir, not when I was at Ottawa.

Q.—Did you take the Toronto ones first? A.—Just speaking from recollection I got Mr. Bruce's first; then I think I got the directors except possibly one or two that I could not get at the time, then I think that I got the Petrolea people; they had a pretty large amount of money invested in it; and I forget who came next, but I think the Ottawa people came next.

Q.—If you had over \$100,000 in options you were getting pretty well through? A.—Well, I was getting pretty well on no doubt.

Q.—So well on that you say in your letter, "My correspondence is so favorable"—I suppose you were pursuing the matter by correspondence as well? A.—Yes.

Q.—"Is so favorable that I shall now pay up everything as Mr. McGillivray suggested?" A.—That brings a matter to my mind that I did not think of before; our arrangement was that I was to take options until I saw that I could get it in.

Q.—Get what in? A.—A majority of the stock; if they could not get the majority of the stock in they did not want any, because our people would have the stock on their hand, and Laidlaw would not take it. Therefore I paid out no money, if I recollect rightly, except trifling amounts, as little as I could, in the early stages, and as soon as I was satisfied that I could surely get the half then I thought there was no use of my getting an option first from a man and then going back to him

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again and settling up with him. I would get the thing closed up at once; that is my recollection assisted by that letter.

Q.—You say in your letter that Mr. McGillivray suggested that? A.—I think in all probability, in fact I have no doubt in the world that if the letter says that that that is true.

Q.—When you were writing that letter you did know of the interest of the Foresters from what you already told me, because you had ascertained it about 27th February? A.—I did not intend to mention the date when I knew the interest of the Foresters, but I think at that time I did know for the simple reason that it was soon after I got the \$25,000 that I found that the money was coming from the Foresters.

Q.—I see that you make the statement in this letter that you have paid out \$13,601.25, and you ask Mr. Laidlaw to send you say \$25,000 more, so that you would pursue your policy of closing as you went? A.—Yes.

Q.—And you got that further \$25,000 of course? A.—I suppose I did, no doubt.

Q.—You also say this, which will give you perhaps an idea of the stage at which you had arrived: "Please arrange to send us \$25,000 more at your earliest convenience, and I shall hope to have the matter closed up at the end of next week"—that was written on the 12th March? A.—By matter all closed up I did not mean evidently that I would have the whole of the shares.

Q.—What did you mean by having the matter closed up? A.—That is that I would be far enough advanced to know I would have control.

Q.—I see a letter from you on the 4th April to Laidlaw in which you say the amount of stock to be got in is \$113,950, you had \$100,000 when you were at Ottawa, when you completed your work at Ottawa, and that only left a comparatively small amount to get in? A.—Yes, of course the end amounts were always the hard fellows.

Q.—Sixty-five per cent. represents \$74,067.50; to this add \$1,000 expenses as stated in your letter, that is your fee? A.—That probably would be the fee.

Q.—Is there any doubt about it? A.—I am merely talking from what you read.

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Q.—Why did you call it expense, why did you not say fee or commission? A.—It was expenses to him, he would put that in as expenses surely.

Q.—It was not to you? A.—No, and I am not claiming it as my expenses.

Q.—To this add \$1,000 expenses as stated in your letter—in the letter it was stated as remuneration to you? A.—It was remuneration to me, disbursements to him.

Q.—“That makes \$75,067.50, from this take \$50,000 paid,” etc. (Reads to the words “closed up by that time.”) That was, I suppose, a correct statement, that up to the date of this letter you had never paid more than sixty-five cents on the dollar for the stock? A.—I think that is correct, that is, I have no doubt that I wrote intending to write correctly and for that reason I have no reason to doubt it now.

Q.—You paid for the stock of course by your cheques? A.—I think so.

Q.—Or how was that? A.—I think I paid for the stock by my cheques, but I am not sure, I am pretty sure as to that.

Q.—Where are the cheques? A.—The cheques, no doubt, ought to be filed away along with my old cheques in Chatham.

Q.—I shall ask you to have a search made for those if you have not them here and see that we get them? A.—All right; it is just possible,—no, I do not think they would have been given to the executive committee.

Q.—Then we find a cheque of the Foresters for that exact amount, \$25,067.50; you got that \$25,067.50? A.—I have no recollection, but I have no doubt I did. In all probability one of those little books would show that. What is the date?

Q.—4th April, 1901? A.—(Referring to Exhibit 576) I do not see any entry of that in the book.

Q.—I have here an account of Mr. Laidlaw's? A.—My name would be on the back of the cheque.

Q.—It would be Mr. Laidlaw's cheque, not the Forester's. The Foresters paid it to him and he paid it to you. I have an account here of Mr. Laidlaw's in which he charges these three payments to you, if you will just take a look at those three charges you will see; 2nd March paid Wilson, K.C., on account purchase shares \$25,000; 16th March on account

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purchase shares \$25,000; 4th March \$25,067.50? A.—I cannot question those at all.

Q.—You received therefor from Mr. Laidlaw, acting for the Foresters for the purpose of being expended in the purchase of shares \$75,067.50 less \$1,000 which was your own fee? A.—Yes, if that is correct.

Q.—What did you expend in the purchase of shares? A.—That I cannot tell you here unless I find it in this book. That was all in the statements which I handed to the Executive Committee at the time we made the settlement.

Q.—There are none in the papers of the Foresters or of the Trust Company? A.—Well, remember that the Trust Company would not get them, did not get them, because that was the reason why I was required to give these to the Executive, they were on the other side of the fence from the Trust Company, and then so far as the Foresters was concerned I had nothing to do with them—

Q.—I do not appreciate what you say they were on the other side of the fence from the Trust Company? A.—If you would allow me to explain how I became a director of the Trust Company you would see that then.

Q.—Wait a minute; you were a director of the Trust Company, and these members of the Executive were also members of— A.—I meant a director of the Union Trust—

Q.—I am speaking of the Provincial? A.—When I went out from the Provincial Trust people and agreed to become one of the Union Trust people Doctor Widdifield, who was one of the Executive, said to me, “Now you are going over with them you ought to leave with us all these papers and vouchers, and I tied the papers up and vouchers and left them with them.”

Q.—You are too good a business man not to know approximately how much you got that stock for? A.—No doubt the letter is correct

Q.—How much you purchased the stock for? A.—I would take the quantity of stock and take 65 per cent. of that and that would represent it.

Q.—That represents what you got to expend, I want to know what you expended? A.—And that would represent what I expended.

Q.—Do you say so? A.—Yes.

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Q.—Your option with Mr. Bruce was only sixty cents, you never paid him more than sixty cents? A.—Mr. Bruce won't say so.

Q.—Do you say so? A.—I do say so.

Q.—You raised the options you had so as to make it 65? A.—No.

Q.—You had an option at sixty? A.—That option was given at a time when I was trying to find out what I could get the stock for, what people would be satisfied with, whatever Mr. Bruce gave me the option for represented the intrinsic value of the stock. I felt bound, and my clients, that is the executive, felt bound to get the utmost cent they could for the shareholders, and we believed, he believed at the time that when we got 65 cents we got more than the value and I told them at the time I started out I would not make, as I said, fish of one and flesh of the other, I would give them all alike.

Q.—At all events you are going to hunt up your cheques and let me have them? A.—Yes.

Q.—Did you get in all the stock, the whole \$113,000? A.—I believe I got in every single share except two shares that they asked me not to negotiate for.

Q.—What two shares were those? A.—I do not mean two shares of stock but two blocks of stock; they were held by clergymen; I do not remember their names.

Q.—Do you remember how much the stock was? A.—No sir.

Q.—Was it one thousand dollars each? A.—Quite probably.

Q.—How did you adjust that, or was it ever adjusted? A.—Yes, it was adjusted in the statement which Laidlaw and myself figured out when we passed receipts at the close of the transactions.

Q.—Did you pass receipts? A.—Yes.

Q.—Have you the papers you figured out? A.—No, those were the papers I handed over but I took a copy of one of the receipts I think. When I handed them over there was one receipt I took and a copy of an agreement; that was the final closing of the matter of the adjustment. That receipt was handed over to my clients. (Produces a receipt).

Q.—Let us see what this is; you paid Mr. Laidlaw \$3,750, that was in full of the liability of the guarantors as to the value of assets? A.—Well, I do not remember outside of that receipt, whatever that receipt says.

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Q.—Read it yourself and see whether I am stating it correctly when you look at the receipt? A.—(Reads) "Received from Matthew Wilson, Chatham, the following cheques: Cheque 15th June, 1901, for \$3,750 in full of liability of guarantors in re Provincial Trust Company, Limited, for value of assets acquired by the new shareholders. Cheque for \$1,000 dated 15th June, 1901, in payment of money advanced by Trust Company to him on account of services."

Q.—We will take it item by item. The \$3,750, if I read this accurately, has nothing in the world to do with the moneys you were furnished with to buy stock? A.—That I do not know. I have no reason to think it had.

Q.—What do you say? A.—I have no reason to think it had.

Q.—Then we will leave that out of the question. Then this \$1,000, what was that? A.—Well really I do not know any more than you do. I look at that writing and that is the only thing I have to go by. Now you have exactly the same.

Q.—Have you any way of refreshing your recollection about it? I have not exactly the same, because I did not do the transaction and you did? A.—Read about that \$1,000 again.

Q.—"Cheque for \$1,000 dated 15th June, 1901, in payment of money advanced by Trust Company to him on account of services." A.—Now I would understand that to be a cheque of \$1,000 given by me to Mr. Laidlaw; that would be my understanding of that.

Q.—Why did you give it to him? What was it for? A.—Because that was a receipt given in the closing up of the thing.

Q.—A receipt given by Mr. Laidlaw? A.—That is my recollection of it that that is a copy of the receipt given me when the matter was closed up.

Q.—That is what you tell me and I do not doubt it. Can you not throw some light on the item in that receipt? A.—No, I cannot. What I mean is that it is so old I cannot recollect it, except what I see in the receipt.

Q.—Do you suggest that that has anything to do with the money that was given you to buy stock with? A.—Yes, that was a settlement up, as I would suggest, of the whole transaction at the close.

Q.—Cheque for \$1,000 in payment for money advanced by the Trust Com-

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pany to you on account of services?
A.—Now see Mr. Shepley. Here is an entry I find in this book that I have never seen from that day to this, and that gives the same sums. Possibly that will throw some light on it.

Q.—We will see what there is in this. This is the 15th of some month. Let us get at the proper month. 15th June probably. It commences 29th May, and that corresponds with these dates. "Received from Mr. McGillivray cheque for \$587, being \$1,237 less \$650." What does that mean? A.—I cannot tell. Let me see the book. Possibly I can tell from that. (Witness looks at book). I would interpret that to mean this. Of course I am just interpreting it almost as you would; that Mr. McGillivray was entitled to \$650 from me, that he was liable to me for \$1,237, that I got from him a cheque for \$587 in settlement of those two matters. That is what I would think.

Q.—That \$650 would probably be 65 cents on the dollar of Mr. McGillivray's stock of \$1,000? A.—Well, I have no other supposition than that.

Q.—Then how did he come to owe you \$1,237? A.—Looking at that entry I would take that to be the final settlement by Mr. Laidlaw, the Committee and myself, of my expenses.

Q.—Of your expenses? A.—Yes. My compensation.

Q.—That is compensation from your Executive Committee? A.—Yes, from him.

Q.—You see there were three of them; Widdifield, Flett and McGillivray, each of whom was liable to you for \$1,237? A.—Yes, I do not mean to say there were not more, but that is the case as you put it.

Q.—That would be in respect of your having discharged their liability as guarantors, would it not? A.—It may be that or—

Q.—Don't you think it is? A.—Well you may be right. I would be inclined to think that it was not; that is I would be inclined to think that that was their chipping in to make up my services.

Q.—At all events, whatever it is, that has nothing to do with the moneys that were given you by Mr. Laidlaw to buy that stock with, has it, manifestly? You cannot at present tell me about that? A.—No sir, I cannot.

Q.—What are these other items, paid Oronhyatekha \$650, paid Allen \$650, paid Dr. Ryerson \$1,300, paid

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Mr. Millichamp \$650; paid Mr. Barber \$1,300—what is the meaning of these figures which appear here? A.—I cannot tell.

Q.—You will not object to my having that examined? A.—Certainly not.

Q.—When was this pencil written? A.—I do not know. No doubt about that time when I would be putting the book away.

Q.—Can you explain that entry; you also gave him a cheque for \$1,000, and received back a cheque for \$360? A.—No, I cannot.

Q.—In full for professional services. Provincial Trust Company, and disbursements for travelling, and hotel expenses, etc.? A.—The only explanation I can give is this—that is at this date—that that was the time that the whole matter was figured up between the whole of us, accounts closed, papers put up and put away, and that was after several sessions, one after the other.

Q.—You see the \$360 is of the date of the 15th June, "Paid M. Wilson, K.C., for professional services." A.—That corresponds.

Q.—Certainly it corresponds, but it does not give me any explanation of that \$1,000? A.—Which \$1,000.

Q.—Which appears in this receipt the same day? A.—Well is there no credit in Mr. Laidlaw's account of \$1,000 to me?

Q.—That is just what I am going to ask you about after I get your recollection? A.—Well if there was a credit to me of that \$1,000 that would explain the entry in my book.

Q.—There is a credit to you of \$1,000, but there is no explanation of why it is credited to you or why you paid it? A.—I will tell you that in one moment. Those two cross payments were made simply to close up the matter, as the amounts were found to be due on one side or the other at the time; calculation was made—

Q.—Let me put it to you plainly, because you are entitled to have it put plainly; do you suggest that you gave up your remuneration of \$1,000? A.—If I did I did it by mistake; I did not intend to do it.

Q.—Then we can eliminate that. There was no intention of your giving up the \$1,000? A.—That is my recollection.

Q.—You were getting \$360 from Mr. Laidlaw? A.—Not in addition to the \$1,000.

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Q.—Yes? A.—No sir, I never did.

Q.—How much did you get altogether? A.—\$1,000; that is my recollection. I am speaking of course from recollection a long distance back. If I got \$360 more, then that \$360 was for some distinct thing altogether.

Q.—Do you remember anything like this taking place, that you abandoned your \$1,000 lump fee, and took \$360 instead? A.—No sir, I do not remember anything of that sort.

Q.—The entries lend themselves to that? A.—Well, but why should I?

Q.—I do not know why you should. You say you did not? A.—All I say is that I do not believe I did.

Q.—And you never intended to? A.—And I know this; that I carried out more than I was bound to do, and they on both sides thanked me for it; therefore my recollection is that they cheerfully paid me all that they were to pay me.

Q.—Then if we exclude any refund of your fee, we cannot attribute your paying that \$1,000 back to Laidlaw to your not having paid out the whole 65 cents on the dollar for all the stock of the company, can we? A.—Well now, I would not say that. There might be a possibility of that, of the proposition you have just made that I may have paid back the \$1,000 for some purpose like that, but I do not remember doing so.

Q.—This \$1,000 is plainly stated to be in payment of money advanced on account of your services? A.—Yes.

Q.—That has nothing to do with the moneys you got to purchase stock with; if you go with me that far, then we can go to the next step? A.—This is by the Trust Company. It is not Laidlaw.

Q.—But Laidlaw got it from you? A.—Yes, Laidlaw got it from me.

Q.—Do you suggest that that had nothing to do with the money that you had received from the Foresters at all or that it was a refund of any money you had not expended in payment of stock? A.—I am satisfied there was some refund, but I do not remember what it is, and I cannot say that that is it. Q.—I will put in this receipt, (exhibit 578) and ask you if you have any other document, receipt letter or paper, showing that you ever refunded the money that you did not find it necessary to expend because you did not get in all the stock? A.—No.

Q.—You have none? A.—No.

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Q.—And you have no other place where there is any accounting in your books than what is in the second of these two books exhibit 577? A.—No, except of course the account that Laidlaw and myself figured out at the time.

Q.—Which you have not preserved? A.—Which I have not preserved, but I am satisfied you could get those from Mr. Laidlaw. Mr. Laidlaw figured his own way and I figured my way.

Q.—But you arrived at the same result? A.—Yes.

Q.—This is your little book is it? A.—Yes, we arrived at the same result, and there were compromises. That is to say Mr. Laidlaw was trying to get more and the Executive Committee were trying to give less. I think Mr. Laidlaw did pull them up to the extent of \$25. They put their hands in their pockets for \$25 a piece in addition to what they had agreed to give. The Executive Committee were losing on the transaction; that is they were paying out more money to the shareholders than they were getting.

Q.—The Foresters were not concerned with that. The Foresters had given you a specific sum of money to be expended in shares, and that sum of money was arrived at by calculating the 65 cents on the dollar for all the stock that had been paid in to the company? A.—Yes.

Q.—That money you undoubtedly got? A.—Yes.

Q.—You have told me there were at least two gentlemen, clergymen, as to whose stock you were asked to refrain and not to buy? A.—Yes.

Q.—That was two sums of \$2,000 each; you had \$1,300 on that account which you had not expended? A.—No.

Q.—I want to know whether you are able to say that was ever refunded? A.—I have no doubt that whatever was not expended of their money was refunded, and I recollect distinctly cheques were crossed—

Q.—We have seen the cheques you gave, the \$3,750 and the \$1,000? A.—Then you will get from Mr. Laidlaw the cheques that he gave, and I think you will likely find these cheques entered in a book.

Q.—But the cheques Mr. Laidlaw gave cannot affect the matter at all. It is the cheques that you gave, because it was you who had the Fores-

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ters' money. Now what did you give?
A.—Now I gave the cheques.

Q.—You gave the cheques that are shown in this receipt? A.—No doubt.

Q.—And you do not know of any other cheques you gave? A.—I do not know of any other, and whatever cheques I did give closed the transaction.

Q.—Then Mr. Wilson have you told me all that you can recall of your connection with the purchasing of the Provincial Trust Company's stock? A.—Yes, unless there is something else you can draw my attention to.

Q.—Well, it is all that you can recall with such assistance as I have given you? A.—Yes.

Q.—Then you became a director of the Union Trust Company? A.—Yes.

Q.—And you were a Director and are a Director still, I think? A.—Yes. I should say to you what I was going to say before, that when I was first asked I declined, because the people from whom I bought stock might misinterpret my action and think that I had intended all along to become a Director, and then I laid that matter before the Executive for whom I was acting, and they said they would rather I would become a Director, because I would be enabled to help work our assets that I was familiar with, that otherwise would not be worked out to full advantage, and then it was that I consented to become a Director, and at that time I handed up all the papers.

Q.—Then, Mr. Wilson, one little legacy of debt that this has left behind it is what is being carried as an asset in the yearly returns of the Foresters, under the heading of the Provincial Trust Company. Can you give any light upon that? Nobody that we have had hitherto has been able to give us any light on it? A.—I do not think I can assist you much upon that.

Q.—You know to what I refer? A.—I do now, but I never knew before; that is I never knew before this investigation. I never knew anything about this account of Mr. Laidlaw's. I suppose that if the I.O.F. went to expenses, part of those expenses that they would consider as put into the Provincial Trust Company assets would be this account.

Q.—I am not speaking of this account at all. What we find is this; as the records give the transaction the ultimate destination of all the property of the Provincial Trust Com-

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pany was the Union Trust Company? A.—Yes.

Q.—You follow me so far? A.—Yes.

Q.—And the disbursements which the Foresters had made in acquiring that property for the Trust Company the Foresters were to have refunded? A.—No sir, I don't follow you that far.

Q.—Do you say it was not so, or you do not know? A.—I do not know.

Q.—That you do not know? A.—I do not know, Mr. Shepley, the first thing about the bargain between the I.O.F. and the Union Trust Company as to that. You will have to ask someone else.

Q.—With respect to the Union Trust Company, it was acquiring the assets? A.—Yes.

Q.—And it was acquiring all the assets? A.—I think so. Perhaps I am mistaken. There was an Abbott-Mitchell matter, if I recollect rightly about \$20,000, and I do not think they were acquiring that.

Q.—You do not think the Trust Company were acquiring that? A.—No.

Q.—And who do you think was? A.—I do not know unless it would be Mr. Laidlaw for the I.O.F. I have just a sort of recollection, I may be mistaken, but I have a sort of recollection that the Abbott-Mitchell matter was kept out of that.

Q.—Your recollection is apparently not very clear about it? A.—No, it is not clear at all. I know that was an item that was discussed backwards and forwards for days, if not for weeks, as to what should be done with it, and at that time we were agreed that Mr. Laidlaw should take it and hold it in trust, and that the proceeds should go to a certain extent to his clients, and to a certain extent to the Executive Committee, and then it was thought that his clients would not be interested in pushing it, and it was better for the Executive Committee to keep it out entirely, and if I were guessing at it—and it is only a pure guess—I would guess that the Abbott-Mitchell matter was kept out from the Union Trust Company.

Q.—Are you able to say from your connection with the Union Trust Company what assets taken over by it from the Provincial were still unrealized at the end of last year? A.—No sir.

Q.—Your information would not enable you to say that? A.—No.

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Q.—You do not keep close enough track of matters for that? A.—No, because there were assets taken over you know that would be current and might run on for years.

Q.—That would be different from what I am speaking of. Do you remember whether or not the Union Trust Company paid the \$2,500 that was for the organization expenses? A.—No sir, I do not.

Q.—You do not know? A.—That is I do not think it would have done so.

Q.—You do not think it would have done so? A.—It may have done so.

Q.—It appeared in this statement as an asset? A.—It appeared in the statement of the Union Trust Company.

Q.—No, in the statement of the Provincial Trust Company—in the property in was handing over it was appearing as an asset? A.—But remember, Mr. Shepley, that was quite a different thing. You see the Provincial Trust Company was selling to the I.O.F. When the Union Trust Company was formed then the I.O.F. was dealing with the Union Trust Company.

Q.—Was not this the way of it? Was not the stock of the Provincial Trust Company so that it was vested in representatives of the Foresters? A.—That is my recollection. It was vested in Dr. Oronhyatekha, Mr. McGillivray and Mr. Collins.

Q.—Would you not assent to this proposition, that the ownership of the assets which the stock represented passed with the stock? A.—I would think it a matter of law.

Q.—You would think it did? A.—Yes.

Q.—That is the assets still remained the assets of the Provincial Trust Company but there was a new set of shareholders? A.—That is the way it was worked out to my recollection. That was while it was the Provincial Trust Company.

Q.—Then the Provincial Trust Company surrendered its charter and and the Union Trust Company got its charter, and the Union Trust Company stepped into the shoes of the Provincial? A.—Oh, I do not say that at all.

Q.—Do you say it did not? A.—I cannot recollect, but if I were guessing at it I would say it did not.

JUDGE MAC TAVISH: Q.—That it did not? A.—Yes.

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MR. SHEPLEY: You have not familiarized yourself with the statements made to the Government upon which the new charter was issued and the old charter was permitted to be surrendered? A.—No.

Q.—You do not know how that is? A.—No.

Q.—That probably is the best way of deciding that. Then did you concern yourself actively with the organization, after you got permission from your Executive Committee with the organization of the Union Trust Company? A.—No sir. You see Mr. Laidlaw became the solicitor for the Union Trust Company and I was a non-resident member of the Board, and I did not concern myself; in fact, I was not at the organization meeting.

Q.—Who suggested your going upon the Board? A.—I think it was Dr. Oronhyatekha first and then Mr. Laidlaw afterwards, but it may have been the reverse, it may have been Mr. Laidlaw first and Dr. Oronhyatekha afterwards.

Q.—Did you take part in the negotiations that went on looking towards bringing people who were not Foresters into the Union Trust Company as Directors? A.—I think I was one of those brought in in that way.

Q.—Did you take any part in bringing in others? A.—No sir, I did not. That is my recollection.

Q.—Were you aware of the policy that was being followed in that respect? A.—Oh yes, we discussed the policy. That is, the intention, as I was told when I was brought in as a Director, was that the stock would be distributed, would be sold, to give greater influence to the Trust Company, and that the I. O. F. would hold, if I recollect rightly, 51 per cent. of the stock, and that the remaining 49 per cent. would be distributed among shareholders, giving preference to the members of the Foresters, but at the same time allowing the Directors who were not Foresters to subscribe a fair amount, and they gave me the privilege of subscribing \$40,000, and I did subscribe \$40,000.

Q.—Then that policy was changed? A.—Yes sir, that policy was changed quite a while afterwards.

Q.—And how did that come about? A.—Well it came about in this way; it was found that the success of the Union Trust Company was so great, and the stock was so valuable, and the

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prospects so good, that the gentlemen representing the Foresters did not want to let the stock go, preferred to pool it.

Q.—Did not want to let the public in? A.—No.

Q.—Do you know of any other subscription besides your own of any substantial amount? A.—No, I do not know of any other actual subscription. There were to be actual subscriptions but those were cut off.

Q.—Was yours actually subscribed for or allotted? A.—Oh yes, subscribed for, allotted and paid. I paid whatever calls were made upon it. I do not know what calls were made, but I paid whatever calls were made upon it, and I held it for some years.

Q.—You think so? A.—I think so. I may be mistaken.

Q.—Of course the books will be much better than your recollection? A.—Yes, much better than my recollection.

Q.—How did you come to give that up? A.—I came to give it up in this way. The Board adopted a policy of strengthening the company; that is declaring small dividends and turning profits into rest, and the Board had made a bargain with the Foresters that the Foresters should receive 4 per cent. upon the money which the Board invested, and therefore the Foresters were interested in keeping dividends down to 4 per cent., because they were getting just as much by 4 per cent. dividends as the interest they were getting upon their money. They were satisfied with that and let all the balance go to rest. When they determined upon that policy some of them said—it may have been myself but I do not think so—I think some of their representatives who were urging that policy said that that would make it hardly fair to Mr. Wilson who had put his money in it for the purpose of making dividends; and to give him 4 per cent. and accumulate rest was good for the company, but was not good for him; and they gave me then the option of taking back my money with what it had actually earned in the company, and reducing my holding to \$1,000, and they had a calculation made up showing what the money had earned, I think 8.76 per cent. during the time, and I took back my money.

Q.—With what it had earned in the meantime, and became a shareholder with the qualifying shares to the extent of 10? A.—Yes.

Q.—Like the other four we have heard of? A.—Yes.

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Q.—And after that was carried out there were only 50 shares altogether in the company which did not in truth and in fact belong to the Foresters? A.—I think so. At all events, after that was carried the policy to give all the profits to the Foresters.

Q.—Then were you familiar with the business of the Trust Company? Were you a regular attendant at the Board meetings, and did you give your attention pretty well to what was going on? A.—I think I could say that.

Q.—What was the first syndicating that you heard of among members of the Board of the Union Trust? A.—I think the first I heard of was the Great West Land Company; that is my recollection.

Q.—You think that was the first you heard of? A.—I think so. Of course I do not pretend to speak accurately as to time.

Q.—How many syndicatings have you heard of? A.—That one and that one only.

Q.—You have heard of course of the Kamloops syndicate? A.—Oh that was—

Q.—You have heard of it since if you did not know of it then. You knew all about it then did you not? A.—No, and I do not know anything since. I think you are mistaken possibly as to that.

Q.—Perhaps you do not call it a syndicate. I wanted to use a general term which would cover all transactions by which those who were interested in the company were concerned with having their business affairs financed with the company? A.—Well just now I have no recollection of that sort of thing in connection with the Kamloops Company.

Q.—Then we will leave the Kamloops case till we come to it, and we will see how that stands upon its footing. The Great West Land Company originated, so far as you were concerned, with whom? Who first spoke to you upon the subject? A.—The first I heard of that, either Mr. McGillivray or some of the Foresters I think wired me to come to Toronto, and I saw them when I came to Toronto, and went with them to meet a number of gentlemen at an office down on the north side of King street.

Q.—Who were the gentlemen? A.—I think Fowler, and I think Le-furgey and VanDusen and Shaw and Mr. Curry the Crown Attorney, and a Mr. Dale—there were about a dozen

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I think but I cannot remember the names.

Q.—Had you before the meeting discussed it with anybody? A.—No.

Q.—Not with Foster or McGillivray? A.—They told me before I went down to the meeting.

Q.—I want to get what your first information was? A.—My first intimation was that these gentlemen were interested in what was called the New Ontario Town and Farm Site Syndicate and that they had lands up on Lake Nipigon—is there a lake Nipigon?

Q.—When you say these gentlemen, will you distinguish? A.—Well, the men whom I have mentioned, not Pope or Lefurgey, and that there were, if I remember rightly, water powers, and town sites, and all that sort of thing, and I went down and discussed that matter for about half a day.

Q.—What else were you told before you went to the meeting? A.—That they wanted to turn this over, that they were short on capital, and they wanted to get some person to go in.

Q.—These people had a company, and they had some assets which were not considered to be of much value? A.—Well, they thought them of very great value, but I did not look at it in that way.

Q.—And no person who was interested with you did? That was a foregone conclusion so far as you were concerned, that you did not care anything about the proposition that those capitalists had? A.—No, pardon me. It was rather the other way. I think possibly I was the one that threw the cold water on that; that Mr. McGillivray and Mr. Foster, I think, thought it was a proposition well worth discussing.

Q.—Did you throw water so effectually on it that you extinguished the enthusiasm about it? A.—I think so.

Q.—And that was before you approached those gentlemen? A.—Oh no, that was after we had gone to the meeting, and discussed the matter very fully at the meeting.

Q.—And heard what had to be said in favor of the proposition? A.—Yes.

Q.—That is what these people had. They had the New Ontario Lands or Town sites, whatever they were, and had a charter, and what had Pope and Fowler or Fowler and Lefurgey? A.—Well, I did not know those gentlemen, at that time, but either at that meeting or almost immediately

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afterwards—I am speaking only from recollection, I would be inclined to think it was at that meeting—I learned that Pope and Fowler were interested in lands in the North West; that is the 200,000 acres of land in the Saskatchewan Valley.

Q.—Let us come back again to the interview between yourself, Mr. Foster and Mr. McGillivray? Do you tell us that at that interview you did not know or did not discuss at all what Pope and Fowler had? A.—No, I did not tell you that. I cannot recall that.

Q.—Perhaps you will say you do not know whether you knew or not? A.—No.

Q.—You do not mean to say you were all going down there to meet about the proposition about the town site? A.—That was what I was going down about.

Q.—Without regard to the other? A.—Yes.

Q.—That is your best recollection? A.—Yes.

Q.—But you won't be surprised if you are mistaken? A.—No, not a bit surprised if I am mistaken; that is too long ago.

Q.—Now what next? Have you told me all that took place at the meeting between you three before you went down to the General Meeting? A.—Yes, I cannot recollect what took place between us three, but when we went down to the meeting it resulted in me not wanting to have anything to do with the Ontario property.

Q.—That killed that? A.—Yes—I would not say that killed it, but I would say the other gentlemen came to the same conclusion, Foster and McGillivray.

Q.—In what capacity were you being invited to this meeting, as you understood? A.—How do you mean in what capacity? As their solicitor?

Q.—What function were you supposed to be filling in your attendance? A.—In my personal capacity, not as solicitor or anything of that kind.

Q.—Were you supposed to be capitalists going down to inspect the property with the view of putting your capital in? A.—Yes.

Q.—That is your idea of what you were going there for? A.—Yes.

Q.—That is, that you were being asked by the Town Sites Syndicate to inspect a property with a view of putting your capital in it? A.—Yes.

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Q.—Did you then suppose that Pope and Fowler had an interest in this syndicate? A.—I had no supposition one way or the other. I did not know the gentlemen whom I was introduced to at all.

Q.—You did not know the gentlemen whom you were going to meet? A.—No.

Q.—Did those who were associated with you? A.—I think they did.

Q.—But they did not take you into their confidence, you say? A.—No sir, I do not mean that at all. I mean that I went into a room with a dozen strangers and they went into a room to speak to people they knew.

Q.—What I was asking you—perhaps I did not make the question quite clear enough—what I was asking you was this; you said you were not aware of Pope and Fowler as being persons interested in the Syndicate lands in New Ontario? A.—That is my recollection.

Q.—Did you expect to meet them there in any capacity when you went to the meeting? A.—No, Mr. Shepley, but that was because I did not know Pope and Fowler from the man in the moon. I did not know them any more than I knew the other men.

Q.—I understand that. Perhaps the best way of putting it is this; did you understand you were going down to listen to the two propositions, or to two separate and distinct interests, or only one? A.—I think only one, but I am not sure.

Q.—I was asking you about your associates, whether they were aware of the two, and perhaps that is where we got apart. Do you know whether they were aware? A.—I do not.

Q.—Nothing at all events was said to you? A.—Well, I would not say that, but nothing that I recollect.

Q.—When you got to the meeting was the first thing done to discuss the New Ontario proposition and turn it down? A.—I believe so.

Q.—Then how was the other taken up? At the same meeting? A.—I do not believe so, but it may have been at the same meeting.

Q.—You do not think it was at the same meeting? A.—No.

Q.—You think you parted? A.—I think so.

Q.—How did you get in touch again? A.—Well, we had two or three meetings, my recollection is over that New Ontario business.

Q.—Perhaps you will tell me just in your own way how it developed? A.—I think it developed in this way; there was a gentleman a Mr. Dale, who was interested in New Ontario, and he was very persistent and he kept at us to persuade us that was a good proposition, and I think before we got through with that proposition—this is only a surmise—that he had got hold of the other men, and was acting as a sort of intermediary between Pope and Fowler on the one side, and ourselves on the other. That is only a surmise. At all events we were brought together.

Q.—You did not understand, I suppose, that the New Ontario Syndicate had any concern whatever, or any interest whatever, in the Saskatchewan land? A.—Well, I won't say that. I may have understood that at the time. I do not recollect it now.

Q.—When Pope and Fowler became ready to discuss business, what was the way in which the proposition was put? A.—I recollect only Fowler, not Pope at all. As I understood him he had 200,000 acres of land, at least, that he was willing to sell that at \$4.50 an acre. He showed us the location of the land. I think he told me from whom he had got it.

Q.—From whom did he say? A.—Well, I think he said from the C.P.R., but I may be mistaken—oh, I am sure he said from the C.P.R. Then he told me many things, you know, in the way of booming the land, to get me to take an interest, urging it on me, not improperly.

Q.—What did he say by way of booming the land? A.—Well, he told us where it was, he showed me where the location was, that it was in the Saskatchewan Valley, and that it was in the best location and that they were good farming lands, and he told me that either the Northern Road was located or about to be located I think he said—

Q.—Did he have any inside information upon the subject? A.—No, he did not say inside information, but he said it was either located, or about to be located—he did not say to me it was either located or about to be located, but I say he either told me it was located or about to be located.

Q.—Which he said, you do not quite feel sure of? A.—I do not quite remember.

MR. KENT: Q.—I suppose he said it was a regular cinch? A.—Yes, he

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put it very strong that way, and told me all the reasons he could think of to convince me.

MR. SHEPLEY: Q.—Did he think of that particular reason, to say that he had advance information as to the location of the railway, and had selected it with reference to that? A.—He did not tell me that at that time, but either he or Lefurgey told me afterwards, not exactly as you put it; let me try to put it as he put it. I cannot recollect just now the words he used, but at all events it was in effect that he knew that the road was going to be located there, and that lands were going to go up, and that lands were being held then by the C.P.R. as I understood him—of course I am giving my recollection of a long way back—that lands were being held there at \$5 an acre.

Q.—By the C.P.R. itself? A.—Yes. I am only giving you my recollection as best I can, that they were going to be put up or withdrawn from the market.

JUDGE MacTAVISH: Q.—Put up in price? A.—Put up in price or withdrawn from the market, and some time after that again—of course I have been telling you what took place, not at the first conversation, but at the subsequent one, and some time after that again he told me they had been put up or withdrawn from the market, and then, I think, he drew my attention to a paragraph in the newspaper to that effect, or something to that effect, but, of course, this was all afterwards.

MR. SHEPLEY: Q.—That was after you were all committed to the scheme? A.—Yes.

Q.—You started to say he did not put it quite the way I have put it; that is about his having information in advance about the location of the road, but he said something else? A.—I cannot recollect just the words he gave to me.

Q.—Did they convey— A.—I got the impression that he knew more than the public knew.

Q.—That he knew more than the public knew? A.—Yes.

Q.—Did he mention any names in that connection? A.—No, he did not.

Q.—He did not tell you? A.—No, and remember, too, I am not sure that it was not Mr. Lefurgey.

Q.—You have said that, that you did not know which it was. Did he say how they had financed their first pay-

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ment? A.—No, he did not tell us the first thing about that.

Q.—You did not know about that? A.—No.

Q.—Did you hear anything in the course of any of these conversations, before or after, in the way of explaining why with the C. P. R. lands held at \$5 an acre, they had got theirs at \$3.50? A.—No.

Q.—Did that strike you as something extraordinary when you heard that? A.—No, I could not say it struck me as anything extraordinary for this reason; as I understood, it was the policy of the C. P. R. to sell so many lands and then raise the price, and let the fellows to whom they sold, sell by retail, and therefore bring the general price in the locality up to the C. P. R. price—that that was the way they did business.

Q.—I gathered—perhaps I went too far—I gathered that you intended to say to us that the C. P. R. were said to be holding these lands or lands in this vicinity for \$5. Of course you knew these people were paying \$3.50? A.—I learned that afterwards. I did not learn it the first day, you know.

Q.—At the time you did learn it, did you get any information as to how in the world they had got their lands at \$3.50 if the C.P.R. price was \$5? A.—This is the way I understood it—and I have possibly misled you by my words—I understood they had got their option and promise of these lands at a time prior to this, when the C. P. R. was giving lands to them at \$3.50, that they had a good selection of the lands, that they had a splendid opportunity to get good lands; that then, at the time we were bargaining for the lands the C. P. R. price had been put at \$5.

Q.—You did not hear the C. P. R. price had been \$5 an acre when they approached the proposition, but they had got the lands at \$3.50? A.—I do not quite catch that.

Q.—You did not hear from them that the general price of this land, at which the C. P. R. were holding it when they went to buy, was \$5 an acre, but they got it for \$3.50? A.—No, I never heard that.

Q.—You never heard that? till—perhaps you have been reading some of the correspondence which has been developed in this enquiry? A.—I have not been reading much; I have been too busy.

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Q.—I am afraid you will have to be here tomorrow; we do not want to incommode you, but it cannot be helped. A.—Then I shall have to telegraph.

(The Commission then adjourned at 4.30 on October 10th till 10.30 October 11th).

EIGHTY-FOURTH DAY.

MORNING SESSION.

Toronto, Thursday, October 11, 1906.

Examination of MATTHEW WILSON, K.C., continued:

MR. SHEPLEY: Q.—Have you been refreshing your recollection on any of the matters we were speaking of yesterday? A.—Yes; I have. I saw this morning this account of Mr. Laidlaw's which I had not read before, and I have no doubt his entry is correct, that \$360 was additional professional services paid to me. The entry appears in my book and in his account. I have also to say that I find that as to the two clergymen who in the end I was to not deal with that at least as to one of them I paid the 65 cents on the dollar for his shares, and as I gathered from my book and from Mr. Laidlaw's account he paid the balance. That is how that comes about.

Q.—How do you gather that from his account and from your book? A.—\$350 in full balance, that is as Mr. Laidlaw has entered that there, October 1st: "To paid Rev. Daniel Williams in full balance \$350." Now there is in my book the entry showing that Williams telegraphed that he was sending his stock to me and I know I paid only the 65 cents. In my book under Thursday, I cannot tell what date it is, "Telegraphed Rev. Williams, Bath, re stock and he said he would send his to-night or telegraph to the contrary," so that I have no doubt that my account which was given to Mr. Laidlaw would show that I had paid him the 65 cents. 65 cents would be \$650, and then \$350 paid by Laidlaw would make the thousand dollars.

Q.—I quite see that but the only entry you point to is the entry of his telegraphing to you he would either send the stock or telegraph to the contrary? A.—Yes.

Q.—You would, if you paid it at all, have paid it directly to him? A.—I think so.

Q.—And not to Mr. Laidlaw? A.—

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I am speaking from recollection, but I would say almost certainly paid it directly to him.

Q.—With regard to the other stockholder, do you find any trace of him? A.—I have not found any trace of him in the short time I have had to go over that. There is another entry in that book that I would like to refer to if you would allow me that I found this morning. (Refers to entry in Exhibit 577). "On Friday and Saturday, 7th and 8th June," there is this entry, "Friday and Saturday going over accounts and books on both days with sheriff"—that was Dr. Widdifield—"and Mr. Laidlaw, and on Friday night at Mr. Laidlaw's house. Everything settled subject to Laidlaw finding further liability, and meeting adjourned until February 14th at 2 p.m." Then on February 14th there is this entry: "Went to Toronto. Directors' meeting. Went over accounts again. Widdifield, Flett, McKinnon present and Laidlaw; latter having found more errors in liabilities, \$400, \$105 and \$15, which Laidlaw and those three agreed to settle."

Q.—You refer specifically to that entry as indicating what? A.—As indicating that at that time these accounts were all carefully gone over and a settlement finally made.

Q.—That is the accounts between the vendor and the purchaser? A.—Yes. That included, of course, my account. In the account if I received money from Mr. Laidlaw I treated that as my client's money and then if I paid out money I treated it as paid out of my client's money. And then just in connection with that there was a release given, a formal release given at the time.

Q.—By whom to whom? A.—By myself as holder of all the stock to the Trust Company and the Executive Committee. (Produces release.)

Q.—This is the 12th April, 1901: "Whereas the Company has requested Wilson to procure assignments to Wilson of stock or shares in the company and the said Wilson has procured a large number of shares in the company in order to convey the same as requested by the company, and as is now proposed to be done; and whereas it is the intention of the said parties as well as the parties to whom such assignment of Wilson is to be made that the said Wilson shall release and discharge the company, including all the parties of the second part, from all liability or responsibili-

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ty whatsoever that they may or might be under for or in connection with the said company or the management thereof in any manner whatsoever to the said Wilson or to any holder of the said stock or shares or any part thereof." What was the purpose of that, what liability or responsibility was aimed at there? A.—That was the liability as to which the Executive Committee had procured the opinion of Mr. Blake.

Q.—Then, "Whereas it is also the intention that the said Wilson shall not be liable or responsible upon the stock, for any unpaid call or for any liability or responsibility whatsoever." Then the parties "Agree with each other to release, discharge and forever quit claim each other and one another from all such liability or responsibility whatsoever of, in, to or in connection with the said company or the management thereof or the said shares, so that no one of said parties either by himself or with others shall have hereafter any claim, demand or right whatsoever as against any other one or more of said parties for or in respect of the said stock or any calls thereon, or for or in respect of the said company or the management thereof or the transaction of any business connected therewith." That was intended to prevent you from being under any personal responsibility in respect of the stock standing in your name? A.—Yes.

—Release referred to filed as Exhibit 579.

Q.—Just before leaving that and having regard to what you have told me I think I asked you this, but if I did not I want to ask you again; in your letter of the 4th April when you had got practically all the stock that you did get, because the whole matter was closed up on the 11th, you write to Mr. Laidlaw: "This arises from the fact that I have up to date in no case paid more than the 65 cents on the dollar even for fully paid up stock:"? A.—I think that was correct.

Q.—That you had in no case paid more, and you tell us now you had in every case paid that much? A.—I think so.

Q.—Why adopt that form of expression? A.—Because a good many wanted me to pay more and I absolutely refused, and I was telling him in no case did I pay more, that is my recollection. Of course the letter is really safer to rely upon than my recollection.

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Q.—At all events you are going to bring your cheques? A.—I understand that if I sent them to you that is all you want.

Q.—You are going to send the cheques that passed to the various stockholders in respect of this? A.—I think I can find them; I should say, too I think I gave you the impression yesterday that I paid by my own personal cheque. It will be found that where I paid to people who did not live where there was a Standard Bank Branch I probably paid by my firm cheque or in some other way than by my personal cheque. In one case I remember I bought a draft in the Bank of Commerce, and sent it because there was no Standard Bank where the man lived.

JUDGE MAC TAVISH: You have all the vouchers? A.—I will either have the vouchers or they will be with those papers which I handed over.

MR. SHEPLEY: Q.—Passing to the transaction we were dealing with last night, we were discussing when the adjournment arrived your interviews with the people who had the North-West land the Saskatchewan land, and you had got so far as to tell me you do not remember anything being said about the price having been lowered to this syndicate by the C.P.R.; I think that is what you said last night? A.—I do not recollect the price I think being lowered, but I do recollect they pointed out that they had got it at such a low price.

Q.—And your recollection is they said the price of the C.P.R. lands in general had been raised to \$5, although they were getting them at \$3.50? A.—Were \$5, I do not think they said raised to \$5.

Q.—The statement may have been that the general price of lands of the C.P.R. was \$5 but they had got these for \$3.50? A.—It may have been for all I know; they did not tell me that.

Q.—You got some impression about it? A.—This is what they told me that led me to the conclusion you mentioned. They said the price of lands there that the C.P.R. held, \$5; We got these at \$3.50. They did not tell me in so many words the price of lands at the time we got them were \$5, but a person might infer that or not infer it.

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Q.—Did you infer it? A.—No, I did not infer it at the time.

Q.—You inferred that the price of lands had gone up there since the purchase? A.—Yes, and that they were still going up further.

Q.—Did you hear during any of these discussions who were with Pope and Fowler, in the ownership of the lands? A.—No sir, I did not.

Q.—How many names did you hear altogether? A.—My recollection is Mr. Lefurgey was there and there and then I heard the names of Pope and Fowler, I did not know at that time Lefurgey's connection with it, and the only persons I did know were Pope & Fowler.

Q.—Did you at any time up to the time when the Great West Land Company was formed and the stock allotted know anything about the people who were with Pope & Fowler? A.—No sir, I did not know that until quite a long time afterwards.

Q.—You became aware when the time came for the distribution of the stock, you were a party to the distribution of the stock? A.—Yes.

Q.—Whom did you ascertain to be interested in addition to those you have mentioned? A.—I think we became aware even before the distribution of the stock, I think we became aware the payments had to be distributed, and my recollection is there was Lefurgey and Mr. Bennett and a Mr. Peuchen. I think that is all; I cannot remember any other just now. There may be one more, if you can draw my attention to the name I might think of it.

Q.—You do not at present remember any others? A.—No, Pope, Fowler, Bennett, Lefurgey, Peuchen, I think those were all.

Q.—Those are all you remember? A.—Yes sir.

Q.—I think you told me last night you had no knowledge, were not informed at any time how they had financed the first payment? A.—No.

Q.—Will you go on and give us an account of how the deal was completed, what the negotiations culminated in in the end? A.—In our purchase of one-half interest in the 200,000 acres.

Q.—Stop there for a moment, your purchase of a half interest, when you say "our purchase" what do you mean? A.—I mean the purchase by McGillivray, Foster and myself.

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Q.—In your purchase of a half interest? A.—Yes.

Q.—What do you mean by that, that you only own half the lands? A.—Yes.

Q.—An undivided half interest in the lands? A.—Yes.

Q.—Who purchased the other half? A.—Nobody then.

Q.—Who was to? A.—Nobody.

Q.—Were Pope & Fowler to carry the other half themselves? A.—I am saying nobody so far as I was concerned or knew, but I understood that Pope or Fowler, or rather Fowler—I should not use Pope's name, because I did not see Mr. Pope so far as I recollect, I may have seen him but not to know him.

Q.—Call it the Fowler party? A.—Yes, the Fowler party included a number of other people.

Q.—In addition to those whose names were disclosed? A.—Yes, that is whose names I have given to you yesterday, I think, that is Van-Dusen, Shaw, Dale, Mr. Curry and perhaps a dozen in all.

Q.—You say Fowler's party included those? A.—Yes, as I understood it, that they were to include those, and then that party had the other half of these lands.

Q.—Let us get it now, the original Fowler party was selling an undivided half interest to your syndicate and another half interest to a syndicate in which the original Pope & Fowler party were themselves members? A.—That is the impression I got. I had of course nothing to do with that, they did not tell me and I did not inquire. I had nothing to do with that. Then that party was, if I recollect rightly, to finance their half. We were to finance our half. Then we were to name a certain number of directors for the company and they were to name a certain number of directors for the company—I forget the exact names. Then we discussed our directors, who should be our directors. We waited for them and after a time, I cannot say how long, whether it was a week or two weeks or what time it was. I learned from either Mr. McGillivray or Mr. Foster that the other fellows had come to the conclusion that they could not pull together and finance their half and that they were willing to give up the other half on the same terms that they had given to us the first half.

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Q.—That requires some little light; did you make no distinction as regards the original vendors of the land between say Fowler and Curry? A.—Oh no sir, I made no distinction.

Q.—You made no distinction between them as vendors to you? A.—No, because it made no difference to me whether there was one person or a dozen persons.

Q.—I want to get what was in your mind, you did not suppose that Curry and the other gentlemen you have named who were in the New Ontario Town Sites Syndicate, were purchasers from the C.P.R., did you? A.—No sir, I suppose that they were making some arrangements with Pope and Fowler, what arrangements those were I did not know.

Q.—You have told us a good deal now about the form the negotiations took, let us hear something about the substance, what was doing in the way of profits? A.—In the way of profits, the property was to be turned over to a company to be formed, or a company already formed to be bought, and the lands being bought at \$4.50 an acre were to be turned over at \$5 an acre.

Q.—Originally the land had been bought as we know at \$3.50 an acre by Pope & Fowler? A.—Yes sir. That of course we had nothing to do with.

Q.—But you had something to do with the formation of the company which took the lands over at \$5? A.—Yes.

Q.—And you know I suppose what the arrangements were in respect of all the intermediate profits? A.—In what way?

Q.—Who was to get them? A.—The persons interested in the purchases from the Pope & Fowler people were to get the profit of the 50 cents per acre, between \$4.50 and \$5, as it would be turned to the company.

Q.—There was another intermediate profit between \$3.50 and \$4.50? A.—We had nothing to do with that.

Q.—What was being done with it? A.—I do not know what was being done with it, and I was not interested in that. You see we bought at \$4.50.

Q.—Let us look at the thing reasonably, did you not fully understand that Pope & Fowler, using that name as distinguishing those who had originally bought from the

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C. P. R., that they were making a profit of one dollar an acre? A.—I did afterwards, I did not at first, when I first discussed the transaction and up to about the day we actually closed the bargain for the half I do not think I know what they had paid. It was about the last day. Then I knew of course what was paid and I knew they were making \$1 an acre upon their bargain.

Q.—Your final bargain was made upon the footing of their making a profit of \$1 and your making a profit of fifty cents? A.—No sir, our final bargain was made upon a footing of \$4.50 perfectly regardless of what they made.

Q.—You knew they had paid \$3.50? A.—Yes.

Q.—You knew that is what had to be paid to the C.P.R.? A.—Yes.

Q.—And you knew you were going to pay in the first place \$4.50? A.—Yes.

Q.—Somebody had to get the difference between \$3.50 and \$4.50? A.—Yes.

Q.—And you knew perfectly well who had to get the difference? A.—Certainly, as far as we were concerned.

Q.—Then go on and complete the statement as to what the final arrangement was, and please in stating it deal with the proposition from the time the lands went out of the hands of the C.P.R. down to the time they were to go into the company, give me the details of the arrangement with the various interests? A.—In the first place there was the assignment of the one-half to —

Q.—You speak of an assignment of half? A.—Yes.

Q.—Was there any document about that? A.—I believe there was and I believe that was transferred to the Union Trust Company, but I do not recollect that.

Q.—You believe it was? A.—I have no doubt in the world that we had in the first place closed the option on the first half.

Q.—I want you to look over this bundle here and see if the document you mean is any of those? A.—That I cannot tell. I was not solicitor for the matter at the time.

Q.—You were executing documents? A.—Yes.

Q.—And I do not think you want us to believe you were not understanding

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the documents? A.—No sir, I think I tried to understand and I think I did understand. I did not sign any of these documents apparently, and they are documents drawn by Mr. Curry.

Q.—Do you see what these purport to be? A.—No sir.

Q.—They purport to be in the first place an option of sale between the Canadian Pacific Railway Company and Pope & Fowler, that is what that first one purports to be? A.—Yes.

Q.—That has a schedule of the lands annexed to it; the next one purports to be an assignment of that option from Pope & Fowler to the Union trust Company, is that what you refer to? A.—For what purpose. I would like to read that over.

Q.—I should like you to read it over even if it takes a little time. I want you to get your ideas collected about this transaction so that you can discuss it in a way to give some light. It will take you five minutes, and we will wait.

Q.—That is not the document you are speaking about, of course? A.—No, that is a subsequent document.

Q.—Where is that document? A.—I do not know. I have never had the custody of any of the documents.

Q.—Who has? A.—That document would be with Mr. McGillivray or Mr. Foster in the first place, and would, no doubt, be superceded by the one in your hand.

Q.—You never had the custody of it? A.—No, and I did not draw it.

Q.—What was it? A.—It was an agreement to give us the one-half interest; as I understand it, that which you have in your hand gives the whole interest?

Q.—Yes? A.—That was the difference between the two documents.

Q.—Gave you the half interest. Go on and tell me what its terms were, as you recollect them. I want the substance of the document? A.—Gave us the half interest at \$4.50.

Q.—In the first place who were the vendors? A.—Pope and Fowler.

Q.—And who the vendees? A.—McGillivray, Foster and myself. I should not say vendees. It was an option given to us which was accepted by us.

Q.—We will not stick in the bark of calling it an option or an agreement. It gave you what? A.—A half interest in the 200,000 acres.

Q.—At what price? A.—\$4.50 per acre. Pope and Fowler had paid part. We were to refund to them the part they had paid.

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Q.—The whole of it? A.—No.

Q.—You said you had to refund the part they had paid, the whole of the part they had paid? A.—The part that would represent the 100,000 acres. We were to pay to them what would represent the 100,000 acres over and above the \$3.50 that we would pay to the C.P.R.

Q.—I should have thought you could tell me more rapidly than I could tell you. You were to pay \$3.50 for 100,000, to the C.P.R.? A.—Yes. I thought I was telling it pretty rapidly.

Q.—Refund to them half of what they had paid on the whole 200,000 acres? A.—Yes.

Q.—And you were to pay \$1 an acre on the 100,000 acres to Pope and Fowler? A.—Yes, that was the substance of it.

Q.—Did you, in pursuance of that agreement, make any payment? A.—No, sir.

Q.—Why was that? A.—Before the time came for our making a payment and after I had arranged to make the payments, we found that the other parties could not finance their half and then they came to us, wanting us to take what they controlled of the other half. They did not control the whole of the other half, but wanted us to take what they controlled of it.

Q.—Then make that a little clearer. The other parties, whom do you mean by that? A.—It came, as I understood—I had no personal negotiations as to that part of it—from Fowler representing Pope and Fowler again.

Q.—That is Pope and Fowler, as you were given to understand, could not do what? A.—Could not, with the parties they were associating with them, finance their end of it. I think that, as I gathered, they were strangers and did not know one another very well and did not pull together and they preferred rather to sell and get out of it, rather than to come in as was originally arranged, appointing their share of the directors and financing their half.

Q.—Now the people who were to get out, to retire, were the people other than Pope and Fowler; Bennett, Lefurgey and Peuchen as you understood it who were interested in it—the other half, is that right? A.—No sir. These people remained in it, that is to say, when we got the

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other half there were still about a dozen shareholders.

Q.—I should not have used the word "retire" perhaps. The people who were not pulling together? A.—Yes, possibly that would be a fair expression to use.

Q.—The people that Pope and Fowler were finding it difficult to pull with were the members of the New Ontario Town Site Syndicate? A.—As I understood it.

Q.—These gentlemen were not, apparently, prepared to assist Pope and Fowler substantially to carry their half? A.—No sir, a lack of knowledge prevents me from saying that, although that may be the case.

Q.—You do not know that, but at all events they were not pulling together.

Q.—Then what? A.—Well, then, they came to us.

Q.—Who did? A.—As I understood it, Fowler, representing Pope and Fowler and all these other parties.

Q.—Fowler, representing the whole of the other half? A.—Yes, as I understood it.

Q.—Not only as to Pope's part, but the part of the New Ontario Town Site Syndicate? A.—Yes, and in connection with that, Mr. Curry did speak to me and I think Colonel Shaw spoke to me and I think VanDusen spoke to me, so that I had discussions with them all, but I think that it was possibly Mr. Dale and Fowler or some of them—I do not know—that carried the option as it were of the remaining half except a number of shares which were held and not given up and which would not then be given up by these people, say a dozen of them, outside of Pope and Fowler.

Q.—Let me see if I have caught what you mean. The shares which, although they were not pulling together, they were insisting on retaining? A.—Yes.

Q.—Can you give me that any more in detail? A.—I don't think I could unless you gave me the subsequent documents.

Q.—This is what is on the record now, Mr. Wilson. In the first place there were five members apparently, of the Town Site Syndicate, each of whom had subscribed for one share of stock in that syndicate? A.—I think that is right.

Q.—And we find that throughout these gentlemen retained in the new

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company that was formed, five shares? A.—I think that is right.

Q.—Now, what other shares? A.—Well, in addition to those there was a gentleman named VanDusen, and Colonel Shaw and a Mr. either Boisseau or Dusseau, and a Mr. Dale. I do not know whether it is Dusseau or Boisseau, but I think it is Dusseau. You must have a list of them; if you will name them?

Q.—You can call them the Curry or VanDusen party, so that we will get some distinctive name, distinguishing them from Pope and Fowler, on the one hand, or your syndicate on the other? A.—Well, suppose you call them the Curry party.

Q.—Shaw, Murray, VanDusen, Dale, Dinnick, Curry and Kidd.? A.—Those are they.

Q.—Dusseau, Diver, Boeckh also. What other shares did this party retain? A.—I think that they had about sixteen shares a piece, some of them fifteen shares, possibly some of them ten shares, but I think the most of them ran about 10 shares each.

Q.—Are you speaking now of what the final arrangement was or what the arrangement was when they came to you with the new proposition? A.—I understood that that was always their interest.

Q.—As between them and Pope and Fowler? A.—Yes.

Q.—Is that all the interest that you understood them to have? A.—Yes.

Q.—And the residual interest was in Pope and Fowler? A.—As I understood.

Q.—I am only trying to get what you understood at the time? A.—Of course that I did not inquire into.

Q.—Then go on with the negotiations that took place and tell us what their course was and what the result was? A.—Well, when the proposition came in from them, that they were not able to handle the matter financially and wanted to turn the matter over to us, I was sent for again and I came to Toronto and discussed the matter with Mr. McGillivray and Mr. Foster, and they told me what was then proposed, and I declined to—

Q.—What was then proposed? A.—To give to us the remaining interest, so far as Pope and Fowler could give it, which would represent every-

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thing, except the Curry crowd and that original five shares.

Q.—Then what I understand by that is that when the proposition was made before you it was a proposition practically that you should go into partnership with Pope and Fowler? A.—With McGillivray and Foster.

Q.—That McGillivray, Foster and Wilson should go into partnership as to the remaining half interest, with whom? A.—With nobody. Except these fellows that you call the Curry crowd.

Q.—That is you were asked then to step into the shoes of Pope and Fowler with respect to the other half? A.—Yes, a little more. Pope and Fowler were getting something out of it. If we stepped into the shoes of Pope and Fowler as to their half, surely, Pope and Fowler would be getting no profit. We were to step into their shoes, paying \$4.50 for the land.

Q.—That is they were to get out with their profit of \$1 an acre on that 100,000 acres, too? A.—Yes. When I speak of a dollar an acre, I do not mean a dollar an acre cash.

Q.—I understand that; I think that has been made quite clear. Then that was the proposition that was laid before you, and what did you do? A.—Well, I declined, because I felt that I did not want to undertake any more than my share of the first half and I did not want to go into so large a transaction, and I preferred to remain as I was.

Q.—What was the attitude of the others? A.—They thought it was such a good thing that we should not lose the opportunity of getting it, and particularly we would be able to make more out of our own half if we had friends in the other half, because we could work better together and make better sales, handle the company better; we could select our own directorate; under the first arrangement we were only to select a certain number and they were to select a certain number, and that view was discussed by them. I was impressed by that and thought it was the proper view, but I was not prepared to go into so large a transaction. I had not made arrangements in my own finances to carry so large a transaction, and I told them so. Then when I took that stand they said "Why not take the matter up and get some person to finance it for us?" I was quite agreeable to that, providing they would go to some outside company.

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Q.—What do you mean by some outside company? A.—Some company other than our own company, other than the trust company.

Q.—You were alert to see the vice of that? A.—Not to see the vice of it. I do not speak of it as a vice.

Q.—Then why did you object to their bringing it to your company? A.—I look upon it as an indiscreet thing, that I never do if I can avoid it.

Q.—You will not go so far as to call it a vice? A.—Oh no, not at all. Because it has to be done. It depends on the transaction.

Q.—It depends on people's views of these things? A.—I do not think it depends so much on people's views as upon the particular transaction. For instance—if you will allow me to explain what I mean—suppose there is a trust company and upon the board of that trust company there are a number of bank directors who are also interested in a bank. Now, I do not think it is a vice for that trust company, if they want to borrow money from a bank, to go to a bank, the directors of which are on the board of the trust company. It is a thing that is done all the time. You have to do it.

Q.—No, you do not have to.

MR. KENT: Would it make any difference in your view, if a majority of the directors of the trust company were also a majority of the directors of the bank? A.—I do not think it would make any difference if the transaction was open and fair and consented to by each of the other directors. I think it would make a very great difference if the majority of the directors by their strength as the majority, carried a proposition of that kind. I do not think that ought to be done at all.

MR. SHEPLEY: I suppose you have heard of such a thing as a "strong" director and a "weak" director? A director who knows what is going on and a director who does not know what is going on? A.—I suppose each individual thinks he is a strong and not a weak director.

Q.—But you know there is a difference in the calibre and strength of men? A.—Yes.

Q.—You know there is a difference in their diligence and their power of perception? A.—Yes.

Q.—And you know there are gentlemen who go on boards of directors and who pay very little attention to

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what is going on? A.—I am sorry to say there are. I do not think it should be so, though.

Q.—Then you objected? Who suggested going to the trust company when you made your objection? A.—My impression is that Mr. McGillivray suggested first going to the Trust Company and when I made the objection, my recollection is that Mr. Foster then said, "Well, if that is a proposition which is a good proposition and if we have the interest of our Trust Company in mind, I think that we ought to offer that at all events to our company; if they do not want to take it, they need not, but it is our duty, in the interests of our company, if we have a good thing, which is legitimate business for a trust company to do, to bring it to that company." That is my recollection as to his attitude as to that. I took my same stand and Mr. McGillivray was raising money by mortgage; and if that was to be carried out, McGillivray said that he would stop the proceedings to raise money by the mortgage to finance, as we had previously arranged.

Q.—That he would stop financing? A.—Yes.

Q.—Why? A.—Because if we were going to take it to a company, then, of course, he would not need to raise the money.

Q.—But I thought you were only going to take this half to the Company, that is all you have told us of, so far? A.—Pardon me, I did not understand you or you did not understand me. The proposal then was to take the whole matter of financing to the company, not only as to the half but as to the other.

Q.—Why? A.—Well, I suppose because they wanted to control the whole instead of controlling merely the half.

Q.—It had not come to them in theory. In theory it was still in the bosoms of Mr. Foster, Mr. McGillivray and Mr. Wilson. A.—When I said they, I meant Mr. McGillivray and Mr. Foster. That is they desired to control the whole instead of the half.

Q.—We are told and with seriousness that you three gentlemen had arranged to finance half of this proposition? A.—Yes.

Q.—That you were prepared to finance half of it? A.—Yes.

Q.—Then we find that as soon as the other half gets into question

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not that half is financed, but the whole? A.—Yes, That is correct.

Q.—Now, I think you ought to give us an explanation of that? A.—Well, I thought that was what I was giving you an explanation of. The going to any company at all was never thought of until this subsequent half, or the half minus the Curry crowd, came in as an option, and then it was proposed to take the whole and to offer it to a company to finance.

Q.—Can you tell me what suggestion was made for abandoning the idea of independent financing as to your half? What underlay that idea? A.—Why, I cannot tell you any further than this, my objection to going into the whole because I felt that the half was enough.

Q.—Then that would be answered by saying "Very well, we will keep our half and finance the other half," that would answer that? A.—But that would not have saved Mr. McGillivray from making the mortgage and would not have been satisfactory in the way of financing either

Q.—Why was Mr. McGillivray to be saved from making the arrangements he had contemplated as to the half? A.—He was not to be saved. Remember this was before we went to the Trust Company at all.

Q.—I know; I am talking about what was passing in your minds and conversation? A.—This is what was passing at that time. There was no proposal on the part of anybody that we were to save McGillivray, from financing his third of the one-half.

Q.—You said, yourself, that would not have saved McGillivray from mortgaging his land. He was proposing to mortgage his half to finance his part of the half? A.—Yes.

Q.—Why should he not go on doing that? A.—He should, if that transaction was not carried out.

Q.—I am trying to find out what in the world was the reason when you were all prepared to finance your half and it became a question of financing the other half, why did you not continue to finance your half and to only get the financing of the other half done by the Union Trust Company? A.—That I would have thought a most extraordinary proceeding.

Q.—Why? A.—It never would have occurred to my mind to do otherwise than if we went to a company to fin-

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ance it, we would go to the company to finance the whole; that is, if we would bring the proposition to a company we would bring it as a whole.

Q.—It was a whole proposition; whether it related to the whole or the half, the proposition would be whole? A.—But the proposition then would be, that instead of taking half we would be taking half, plus the other half, barring out the Curry people.

Q.—Then what else did you discuss before you laid the proposition before the Union Trust Company? A.—Well, I objected to bringing it to the Union Trust Company, because the interest which the Union Trust Company would ask, would be a higher interest than I would have to pay, and I said I did not want to bring it to them for that reason, that I preferred to keep simply the half and finance the half and not have anything to do with the other. Now, I think that that is the substance of all that took place before we discussed the matter with the Union Trust Company.

Q.—Then you leave it at that, that the discussion ended with an objection by you to paying the higher interest that would be asked by the Union Trust Company. That was not surmounted in any way before you went to the Union Trust Company? A.—No, sir.

Q.—How did you come to let it go to the Union Trust Company as a proposition, if your objection was still maintained? A.—Well, they wanted to discuss it with them.

Q.—With whom? A.—With the Union Trust Company people, that is the other members, and see what they thought about it.

Q.—In other words, they wanted to discuss it with their co-directors? A.—Yes, to see what they thought about it. McGillivray said that they had lent money as low as $4\frac{1}{2}$ per cent. and he thought that the Trust Company ought to give us money as low as they would loan it to any person else, and I remember pointing out, I said "There is just the thing that I do not feel like going to them for, because immediately you begin to discuss the question of interest, I said, I would not vote on or discuss the question of the interest which I should pay." That was the way the thing arose. Then we went to the Trust Company directors and we talked it over with them.

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Q.—Whom did you talk it over with? A.—The Doctor, I think every director, except Mr. Stevenson.

Q.—Who were they? A.—I cannot recollect just now.

Q.—Did you talk it over with Sir John Boyd? A.—Yes, I did.

Q.—With Mr. Davidson? A.—Mr. Davidson was at the meeting, I think, but I do not remember talking it over with him at all.

Q.—Are you speaking now of discussions before a formal meeting took place? A.—Yes; not at a formal meeting. It was discussed before a formal meeting was had.

Q.—You remember discussing it with the Doctor, and with Sir John Boyd, but you do not remember discussing it with any other director? A.—No, I cannot fix in my mind a discussion with any other director, although I may have done so.

Q.—What took place in your discussion with the doctor, what was said to him and what did he say? A.—I could not remember that long ago just what was said and what he said, but I remember the proposition being laid before him by Mr. Foster; and before the others. I mean, laid before him and the others by Mr. Foster.

Q.—In the presence of you and McGillivray? A.—Yes. In the presence of McGillivray and myself.

Q.—You are still not speaking of a formal meeting? A.—Yes, I am still not speaking of a formal meeting. My recollection—my impression is that the doctor saw certainly nothing wrong in it, and he rather thought that if it was a proper thing for a public company to do, a proper kind of business for a trust company to do, that it was proper that the Union Trust Company should handle it, if any trust company should.

Q.—Was he doing that by way of explaining away your scruples? A.—No, I do not remember that he was.

Q.—Were you expressing your scruples then? A.—I do not call it "expressing my scruples." I told him what my view was.

Q.—You were saying that your view was against it? A.—That my view was against it.

Q.—That your view was that it was improper? A.—No, I will not say that at all.

Q.—Indiscreet? A.—I said, that I did not think it was well for directors to have any dealings whatever

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with the company of which they were directors, if they could avoid it.

Q.—If you expressed yourself in that way you must have had scruples about it? A.—You may call them scruples.

Q.—Don't you? A.—I say that I think it is an indiscreet thing to do, if you can avoid it. That is what I expressed then and I express it now.

Q.—Will you give it an English name? You have scruples? A.—Well, you may call it "scruples."

Q.—Don't you call it scruples? A.—No, I do not.

Q.—What name is it? What name has it? A.—It is a judgment upon the transactions of men and men. I think that we must not only—

Q.—No, the objection that was in your mind; what do you call it, if not a scruple? A.—I am not calling it by any name; I am simply telling you that I think there are many transactions which are perfectly proper, perfectly honest, perfectly scrupulous, and yet better not to be carried out on account of the effect that they may have.

Q.—And this was, in your view, one of them? A.—Well, I would look at it in that light.

Q.—The Doctor, I gather from what you say, was expressing himself in answer to this objection of yours? A.—I would not say that.

Q.—Are you sure you expressed it? A.—Oh, quite sure. I have no doubt about that, because I remember what was done in consequence of my expression of it.

Q.—Go on, then? A.—Well, then it was said by some person that I had better lay that matter before Sir John Boyd.

Q.—It was put as being referred to a committee composed of Sir John Boyd and yourself? A.—Well, you may call it that, if you wish.

Q.—Was that the way it was done? A.—Is there a minute to that effect? If so, no doubt the minute is correct.

Q.—That is what it has been called in the box? A.—Well, I do not want to take any exception to what has been said in the witness box. All I am giving is my own recollection. Do you want me to continue?

Q.—Yes? A.—I then discussed the matter with Sir John Boyd and told him the whole facts from beginning to end, just in effect as I have told you, only no doubt, with more accuracy, because the matter would then be fresher in my mind.

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Q.—Did it seem to you to be an indiscreet thing that you should be yourself presenting your own case to your co-director? A.—No.

Q.—That did not strike you as being indiscreet? A.—No, I would have thought that if I had an objection, I would be the proper one to express it.

Q.—Did it not occur to you that your taking part in the decision of a question in which you were personally interested was indiscreet, to use your own words? A.—I did not at all understand that I was taking part in the decision.

Q.—Have you read what the Chancellor has said with regard to the impression created upon his mind by what you said to him? A.—Yes.

Q.—What have you to say about that? A.—Well, I read what I have in my pocket here. Tell me what part you have reference to.

Q.—I do not want to waste time or I would get it for you exactly. The Chancellor has said in substance that he was given to understand that this was a transaction in which you, Mr. Foster and Mr. McGillivray were embarking your own funds and that the Union Trust Company was being asked to come into partnership with you? A.—The Chancellor's recollection of that—if he did make such an expression—is inaccurate in this way; when I first spoke to the Chancellor about the matter it was after we had got the one-half interest and we intended to finance it ourselves.

Q.—Then in proposing that he should be a director or discussing the question of his being a director of the Great West Land Company he was told of the transaction just as it was then and then we were financing the matter ourselves. Now, that was the one transaction. Afterwards when we discussed the other matter which was coming before the Union Trust Company, we discussed that upon the distribution of stock, the use of the stock, as appears in that writing which was dictated at the meeting when he was present, and all I can say is that if the Chancellor had the idea when he made his statement that the one conversation was the only one I had with him, he is mistaken. The other part of his statement is correct.

Q.—He is speaking of a conversation which resulted in his expressing an opinion that the transaction might be engaged in. That is what he pur-

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ports to be speaking about? A.—Well, the other part of his statement is the accurate one.

Q.—Then, does it strike you now, that in view of the possibility of recollections differing as to what took place, that the composition of that committee was, perhaps, not the wisest in the world? A.—Well, you call it a committee. I would not have called it a committee.

Q.—I called it that because Mr. Foster and others have called it that? A.—Well, I am not going to dispute that.

Q.—Then will you answer the question, please; does it strike you now that the composition of that committee was indiscreet if it was a committee? A.—No, it does not strike me that the composition of the committee was indiscreet.

Q.—Having regard to your interests and having regard to the possibility of the other member of the committee getting an erroneous idea, or having a faulty recollection? A.—No, the other member of the committee had not an erroneous idea and I do not think he will say he had an erroneous idea.

Q.—He had said he had a certain idea which appears upon what you have told us to be erroneous? A.—No, that idea was as to the first transaction, when we were arranging the first half.

Q.—You were not submitting that to the Union Trust Company? A.—No sir, but I was submitting it to Sir John Boyd.

Q.—Why? A.—Because he was going to become, or we wanted him to become, a director.

Q.—You were speaking of the directorate of that company before a payment came due? A.—Yes, when we were selecting the half that would represent our 100,000 acres.

Q.—Can you give us any more of the discussion between Sir John Boyd and yourself? I would like to know what you said to him? A.—I would simply have to repeat to you what I have already said, and then I would not John Boyd, because I was extremely have it as accurate as I told it to Sir careful to tell him just exactly as the matter was and my memory would be fresher then than now.

Q.—And you cannot account for his having carried away the impression that you were putting your own money into it and that you were not making a profit out of the transaction, a personal profit? A.—I be-

lieve, Mr. Shepley, he did not carry away that impression and I do not account for his having that impression at the moment he was here.

Q.—You say an impression at the moment. You know he came back the next day, upon further reflection? A.—That is the statement I have seen. I have not seen his first day's statement. I have seen the second, and I have no doubt that the impression he had when we spoke about putting money into it was, at the time, when we had the first half under consideration and we were then going to sell stock, and I remember his distinctly asking me if I were going to take stock in addition to what we had and I told him that I was and that I intended then to take further stock and that that stock would be paid for and that we would give to each of the directors sufficient stock to qualify them but everything they subscribed for outside that would have to be paid for.

Q.—That is a very careful account of what you remember of the transaction? A.—Well, I remember that much. I do not pretend to say that I remember it all.

Q.—I will put it to you in the language of the Chancellor. (Reads from the testimony of Sir John Boyd, appearing at page 2434 of the Proceedings of the Commission, second column, line 52, from the words "first as to the legal aspect of the matter" down to "were not substantially interested in contributing the money" on page 2435.) A.—That was the first day. That is the first I heard of that. He evidently qualified that on the second day.

Q.—We will not speak of that as qualified; we will know exactly what he did say. We have taken that in black and white. What do you say to that? A.—I think that he is confusing the two discussions there and I think that the statement he made the next day, where he referred to what he said to me, was quite correct.

Q.—We will come to that in a moment. You will observe that in this statement he says he never expressed any opinion of law except about the competence of the transaction that he set out. He does not seem to have expressed any opinion whatever as to the propriety of members of the directorate dealing with themselves? A.—The next day he qualifies that and says that he did

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not say he saw nothing improper in it. And it was not only on the ground of legality, but on the ground of propriety. If he had said that he thought it was not a proper thing, I certainly would have stuck to my objection.

Q.—Then another question on the same page: (reads from the words "there are just two things that perhaps you will let me ask you," appearing on page 2435 to "that I was not aware of. I am very much surprised indeed, because I thought quite the contrary"?) A.—Evidently there he thinks of the first conversation I had with him, proposing that he should become a director, when it was our intention all to take stock.

Q.—(Reads from the words "it appears beyond controversy," the first line on 2436 to "it was urged that all the stock had been paid up"?) A.—That, of course, is entirely qualified the next day and you can see how absolutely necessary it was for the Chancellor to qualify that when you read the agreement which was prepared.

Q.—The next question was: (reads from the words "it is all pro forma paid up stock," on page 2436 to "A.—Yes, that was quite true in one sense, but not true in another"?) A.—You did not let me finish what I was saying. What I said was, if you would see the agreement which was prepared and which was submitted at the meeting, and the details of it got at the meeting and afterwards executed, when Sir John was present, you will see the necessity of Sir John making his subsequent statement.

Q.—Don't you see, Mr. Wilson, that a man may execute an agreement with his mind possessed of a certain state of facts which, if he paid attention to the agreement he would be disabused of, but which he did not, perhaps, pay enough attention to get rid of? A.—I do not think that would be possible with that agreement.

Q.—You do not think that is possible with the human mind? A.—I venture to say, Mr. Shepley, that you have never in your life seen an agreement set out with more particularity, the whole circumstances.

Q.—I am not saying anything to the contrary of that. What Sir John Boyd said the next day was this (reads from the words "I would like just to supplement what I said last night," appearing on page 2442, to "if that was satisfactory and acceptable to all parties interested, that that might be

carried out"?) A.—I think that is almost identical with what Sir John did say at the directors' meeting subsequently called.

Q.—Do you take that as qualifying what he has said before, that he understood that you had your money up in the transaction, that it was to stay up and that it was a joint deal? A.—It was a joint deal.

Q.—Do you think that is qualified in any way by what he says here? A.—I think so.

Q.—(Reads from the words "what was distinctly present to my mind," appearing at the bottom of the second column of page 2443 to "a sort of partnership concern.") Do you think that qualifies the statement made to the same effect the day before? A.—No, my own impression is that that is correct, except as to the payment, that is, that it was a sort of joint or partnership concern, the Trust Company taking 237½ of those shares, I taking 158 1-3rd of the shares, Sir John taking 10 of those shares, Scholfield taking 10, and then anything outside of those we would have to pay for in full, and in the origin of the transaction, if the Trust Company had not come into it, we were going to subscribe.

Q.—(Reads from page 2443, from the words "if the transaction had been understood by me to be this" to "and the syndicate should have gone out"?) A.—Yes, I think that is perfectly correct. If they had been giving us \$95,000 or any other sum for our interest, then we should have conveyed our interest and stepped out altogether.

Q.—You got \$95,000 in stock and you hoped to get a good deal more than \$95,000 in money? A.—No sir, I did not get \$95,000 in stock, nor anything except the 158 shares.

Q.—That is what you, personally, got? A.—Yes. And don't you see what Sir John says—you are misinterpreting what Sir John said.

Q.—Do you say that. I am reading what he says. I am not putting an interpretation on it. I am comparing it with what you are saying to-day? A.—Yes, Well, that part of it I do not disagree with at all.

Q.—(Reads from the words "if they were going on as a joint concern," in the first column of page 2443 to "Their right to get profits would be only based on the money they put in out of their own pockets.") Do you think that is a qualification of what

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he said the day before? A.—I think there, just as the day before, he brings in the first conversation which he had as to the ownership of the first half.

Q.—Then, to drop what is not, perhaps, a pleasant subject, at all events for me, does it not strike you that the dealing of one director with his company by the hands of another director, is a thing that ought to be forbidden and prevented if it is possible for an accurate account to be given to a co-director and to result in such a misapprehension as this of the situation? A.—You start on a wrong basis, Mr. Shepley. I am perfectly satisfied there was no misapprehension of the situation at the time.

Q.—Then, do you think it is well that transactions of that sort, should be left to depend on memory? A.—I am not saying that, and that was not left to depend upon memory. On the contrary that was put in writing in the greatest of detail.

Q.—And, notwithstanding that, and notwithstanding the accurate impressions that you sought to convey to your co-director, he seems to have entirely wrong impressions and not to have understood the transaction? A.—I do not think so.

Q.—Does not that emphasize the impropriety of one director dealing with his Board? A.—I am not justifying one director dealing with his Board. No person has a stronger feeling on that than I have myself, but I do want to emphasize that I am perfectly satisfied that that agreement showed and that Sir John Boyd knew the true transaction.

Q.—At all events you put it this way, that the Chancellor knew then but has forgotten now? A.—He has drawn the two conversations into one, that is all. If you will allow me, you asked me as to my view generally. I have only recently been discussing the question of urging legislation for the purpose of preventing directors dealing with their companies as freely as they have been heretofore allowed to do.

Q.—What discussion did you have on this matter with Colonel Davidson? A.—I do not recollect any discussion with Colonel Davidson. There is nothing that I can call to mind with him directly.

Q.—Then, before the matter was brought to the formal notice of the Board, at a Board Meeting, all you can recollect is this discussion of yours with the Chancellor, and what you have said about the Doctor? A.—

Yes, but of course I think that others were present at the time of the discussion with the Doctor. That was the informal meeting, but I do not recollect addressing myself—

Q.—Or hearing anybody else address himself perhaps? A.—Oh yes, Mr. Foster did address himself at that meeting. He was the one who introduced it.

Q.—To whom? A.—Generally, to whoever were sitting there.

Q.—Who were there? A.—That I cannot recollect.

Q.—I want the names besides the Doctor and the Chancellor if I can? A.—I think Colonel Davidson was there but I am not positive. Colonel Davidson, I think was there. I am not going to say he was, it is too long ago.

Q.—Do you agree with what has been said by Mr. Foster, that you were going to finance his share as well as your own? A.—Yes, his first payment it was.

Q.—Anything else? A.—No.

Q.—Nothing but his first payment? A.—Yes, I agreed only to that.

Q.—And you were making arrangements or could make arrangements to do that? A.—Yes.

Q.—You do not say that you had? A.—Yes, I had promised him.

Q.—You do not say you had made the financial arrangements? A.—Oh, there was no difficulty about that.

Q.—You could do it quite simply? A.—Yes, either then or now.

Q.—Then the matter came formally before the Board? A.—Yes.

Q.—And you remember the shape in which the proposition was put before the Board? What had become of the question of the 6 per cent. interest? A.—Well, that was always a sore question with me. I felt that it was too high a rate of interest.

Q.—You could have stopped the transaction at any time and reverted to the original position by refusing to agree to that? A.—Yes, I could; no doubt if any one of us had said, "No, we won't go on" it would not have gone on.

Q.—Then, how did you get the objection to the 6 per cent. interest removed from your mind? A.—Just by pressure.

Q.—Pressure upon whom? A.—Chiefly from Mr. McGillivray. Mr. McGillivray said that he was satisfied that he could make them lower the interest and that he did not want

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to separate in the thing, it was better to keep together.

Q.—How do you mean separate?

A.—Did not want me to run my interest separate from their interest or to put up money which would represent what would be my share and hand that into the company, and let them hand it over. He did not want that. It would be better to keep it altogether.

Q.—Of course you could have said to him, could you not, "It does not involve that at all, it does not involve our separating, let us just go on as we were and only finance through the Trust Company the half interest?" A.—As I said to you in the origin I wanted that. I pressed that very hardly, not to take up the second half at all.

Q.—What I cannot quite grasp is why or how the original proposition necessarily disappeared because you were proposing to finance through the Company the other half? A.—Because if you went to any company, I have no doubt, Mr. Shepley, you can see that it would be a question of financing the whole or none.

Q.—Do you think so? A.—I think so.

Q.—It has not seemed to be so with the Union Trust Company? A.—I would think so. I think that the Union Trust Company have always, wherever a thing of that kind has been taken up—

Q.—Then I will not take up your time over that. Then the final arrangement concentrated all the shares in the way in which they were intended to go as the result of the final arrangement? A.—Yes, that is set out in the agreement.

Q.—Now let me go back for a moment. When you were dealing with Fowler in respect of an undivided half interest in the land, you were, I suppose, made aware that the lands had been selected? A.—I was made aware that they had the lands.

Q.—That they had been selected? A.—Well, that they had been defined. I had been made aware that they were defined.

Q.—That is, that they had been selected. You understand these options; you know a certain time is given for making the selection if the option is taken? A.—Well, that was by other people than us. I understood that Fowler and his party had picked out their lands and could give us the section and township.

Q.—And you understood, did you, that they had done that the fall before or some time before? A.—I understood that they had done it, but I did not know at what time.

Q.—Were you supposed to be dealing with all the lands they had selected? A.—I should not put it in that way. What I would say, though, possibly it would have in your judgment, the same effect. I understood that we were dealing with 200,000 acres, specified lands. I did not know at the time we were dealing with those, that they had any other lands there.

Q.—You supposed you were getting all they had selected? A.—Well, it never occurred to my mind in that sense. I supposed we were getting all the lands they had.

Q.—You were not aware that they were reserving out of the selected lands some 7,000 acres? A.—No, I was not aware of that then and I am not now, and if you can give any information to that effect I would be very glad to have it.

Q.—You will get it during the course of this examination if you want it? A.—I did not know that they had reserved anything out of that 200,000 acres at all.

Q.—Did you understand that there was a block of about 17,000 acres of lands which they had rejected in their selection? A.—No, I did not, and I have no reason to understand that now.

Q.—You supposed then that Pope and Fowler were dealing fairly with you? A.—Oh certainly. And I can hardly conceive the situation that you suggest—not that you state—could have existed.

Q.—I am not stating it of my own knowledge; I am stating it as matter of record upon what has been sworn in another place? A.—Well, that I do not know. The first I heard any insinuation to that effect was from something I read in the newspapers.

Q.—In the course of my examination of Mr. Foster? A.—Yes, which appeared from your questions. Not that Mr. Foster said it, but your question was put in that way and then the newspaper took it for granted that it was so.

Q.—Perhaps it would interest you to see that now. You will remember that you really only got 193,000 acres? A.—I understood that we got the whole 200,000 acres that we bargained

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for, but if you will allow me to explain how these things are done—suppose you buy a section, that would represent 640 acres. Then, if the Government survey is made of that, if there is five acres, I think it is, or more of that covered with water, they do not call it 640 but call it so many acres less. That is, the actual acreage outside of the water.

Q.—That was fully explained to us by Mr. Foster, and you manifestly had the same impression that he had? A.—That was my impression, that that was how the 200,000 acres was reduced to 193,000.

Q.—193,937.40? A.—I remember then speaking to Mr. Foster about it.

Q.—Here is a document which was produced on the examination of Mr. Lefurgey in the suit to which I have referred. It is a statement between the original parties who sold to you? A.—I understand.

Q.—“Land bought from the C. P. R. 200,810; Land sold to the Great West 193,937.40; lands still held 6,878.60?” A.—Does anybody now swear to that?

Q.—This is the statement “re land bought from the C. P. R. by R. H. Pope and G. W. Fowler.” A statement rendered by Fowler to his associates? A.—Well, if that statement was rendered by Fowler.

Q.—Cash paid on lands still held, taxes paid on lands sold, making a total of so much? A.—I can hardly conceive that statement having been made by Mr. Fowler.

Q.—That is, you cannot conceive that he made that statement to his associates if he was an honest man to you? A.—Yes, and remember, I am not questioning his honesty to me at all. I do not think that Mr. Fowler would say that to-day. I cannot think that he would.

Q.—Then I will show you what has been sworn to about that. First, do you remember that immediately after the formation of your Great West Land Company you bought from these same gentlemen another 8,000 odd acres? A.—Yes.

Q.—Did you think that was part of the lands they had originally selected? A.—The question of their selection, as I told you before, never came into my mind. But I will tell you how we came to get that.

Q.—You did not identify that, at all events with the selection of the 200,000? A.—Not with the question of selection, but I did identify it with what I thought we were buying.

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Would you allow me to tell you shortly how that came about?

Q.—Yes, tell me what you mean by that? A.—We bought the 200,000 acres. It fell short of that number of acres. I spoke to Mr. Fowler about it, and thinking, of course, that it was a good buy, I made complaints about the shortage in the acreage, and Fowler then said, “Well, Pope and I—” I am merely giving the effect, not his words—“Pope and I have 8,000 odd acres near there.” I said, “beside this other land?” He says, “yes.” Well, that took me by surprise, so after going into that in detail, I went and discussed the matter with Mr. Scholfield, who was interested in the Great West Land Company and who took an active part as a director. And then I discussed it with Mr. Foster, and I told Mr. Fowler that I did not think that he was interested in other lands right beside ours, that he being a stockholder in our company we ought to have his undivided influence and interest with our company, and that I did not like the idea of his holding this land beside our land. I asked him if it was the same land and he said, “Yes, just the same kind of land.” I looked it up on the map and I found it lay right amongst ours, so to speak. Then I interested myself pretty seriously about it, and I pressed it upon Mr. Foster, and Mr. Scholfield took the same view, that Mr. Fowler ought to be required to hand that over to us to make up the 200,000 acres, and Mr. Fowler did so.

Q.—I will tell you something you do not know, perhaps, about those lands too, but let us see about this 200,000 acres. Here is what Mr. Pope swore? A.—I never, so far as I know, discussed the matter with Mr. Pope at all.

Q.—Mr. Pope was asked:

“Q.—What land was kept out of the 200,000 acres reserved by the syndicate? A.—Well, 7,000 acres approximately.

“Q.—For what purpose? A.—The syndicate’s purpose.

“Q.—That is the syndicate were to hold that themselves? A.—Yes.

“Q.—Who arranged to keep that out, what member of the syndicate? A.—Well, not a meeting of the syndicate.

“Q.—You never had a meeting? A.—It was a matter of conversation between myself and Mr. Fowler for two, and Mr. Lefruey for three, and I

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fancy Mr. Bennett, and as far as I remember, rather than a meeting, it was while we were all in Ottawa together, we talked the matter over and we decided to keep 7,000 acres.

"Q.—When was that? A.—It would be just about the time we were making the sale. I don't just remember what the dates were.

"Q.—The sale to the New Ontario Company was practically completed before you made the first payment to the C. P. R.? A.—Yes, so whenever we were called upon to deliver over our land to that company—to the New Ontario Farm Town Site Company—in and around that time we decided to retain that land if possible, in the interests of the syndicate."

That strikes you as a revelation does it not? A.—Well, if that relates to—

Q.—It relates to the 6,878 which I showed you in the statement? A.—That is the land they held out?

Q.—Yes? A.—Well, does not that show that I was right in making them give it up?

Q.—But you did not make them give it up. what you got was half of another block of cull lands which they rejected on their first selection? A.—That would be news to me and I can hardly conceive that to be correct, because they all sold together and all lay together.

Q.—Now I show you the chapter and verse for that, Mr. Wilson? A.—And in addition you are assuming that these statements are all correct.

Q.—No, I am asking you, if they are correct, do they surprise you? A.—If they are correct and if they show that there have been any cull lands conveyed to us, it would give me surprise, because I have never learned that either from them or supposed it, and when we were selling to purchasers from us I never knew that question to be raised, although both our men and our purchasers' men examined the land.

Q.—I will give you that; perhaps it will be of some use to you in your Great West Land Company? A.—That is why I want it. We may get after somebody, if that is correct. Pardon me, would you just let me ask you, that 7,000 was reserved out of the 200,000 acres, as I recollect?

Q.—Yes? A.—Do they say that was better land?

Q.—They do not say as to that. What do you think they would keep out? A.—Can you tell me where it is?

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Q.—No, Mr. Fowler has not sent us any of his papers, you know? A.—So that you do not know what township or section?

Q.—No, I do not. I have been hunting for the original option between the C.P.R. and Pope and Fowler and I have not seen it yet. I want to see what they ranged over and what they selected. Then I can compare that with what you got? A.—Well, that is what I was going to try to do. That is what I had in my mind.

Q.—(Reading on from the same depositions.) "Q.—The 17,000 acres mentioned in Exhibit No. 3 is part of the land that is contiguous to the 200,000? A.—Well, I could not swear that, because I do not know. It might have been. I do not know it."

A.—That I took up and found to be correct, if the 8,000 is out of the 17,000, I found that the 8,000 which Fowler was holding after he had conveyed to us was contiguous, right in the same block.

"Q.—And that is land which you obtained information about while you were in Winnipeg in the previous fall? A.—Well, if it is of the block that we reserved it would be.

"Q.—Well, you know the land, do you not? A.—I don't know the land that way.

"Q.—You obtained information about this land while you were in Winnipeg, going over the plans and all the information you acquired at that time—in the November previous? A.—I say if it was of the 200,000 acres, if it was of that lot, we must have obtained information about it and that is the reason, I supposed it was cut out as of inferior quality.

"Q.—Can you tell me anything about this 17,000 acres? A.—Well, if that is the 17,000 acres that was cut out, which I presume it was, it was cut out because from reports we received it was considered not the equal of the other, and therefore it was discarded and we only took the 200,000 acres."

A.—Well, I do not want to minimize that, I want to magnify it in the interests of the Great West Land Company, but he is speaking of something he supposes there.

"Q.—And then you subsequently took the 17,000? A.—Mr. Fowler made that bargain, I was not present when the bargain was made, but afterwards shared in it."

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A.—Did you find out what they gave for that 17,000 acres?

Q.—No. I suppose you had what you gave for the 8,000 you got of it?

A.—We took it on the same as the 200,000. What did Pope and Fowler give for it?

Q.—“It is said by Mr. Griffon”—who is Mr. Griffon, do you know?
A.—I think he is the C.P.R. commissioner.

Q.—“It is said by Mr. Griffon,” “I desire to state as mentioned to you personally to-day, that under the purchase of the 200,000 acres mentioned in the said agreement, the Company will sell you and Mr. Pope the remainder of the lands mentioned in the said agreement, about 17,000 acres, for \$3.50 cents an acre.” That was to be sold to you and Mr. Fowler?”

MR. WILSON: That was the same price.

Q.—His answer is,

“Don’t mix us up. You asked me whether I knew anything about it and I said I did not. Mr. Fowler did it.

Q.—And you ratified the purchase?
A.—I afterwards shared the profits.

Q.—You ratified the purchase?
A.—Yes.”

Q.—That he says is not part of the 200,000 acres.

“The remainder of the lands mentioned in the agreement.” That is the original agreement? A.—Well, if our 8,000 acres is part of that he is describing there I would take it as pretty evident that we did not get 8,000 of culls, because you see I would take, from what you have read, that Pope and Fowler were paying \$3.50, the same as they paid for the other land.

Q.—They had got their other lands cheap and they were asked to pay a fair price for these probably? A.—I don’t know how that is, but let me say, they were paying the \$3.50 for that; well, then, when you take the map and see the two lands you can see that there is no selection, that there is no picking, they just lie right among one another.

Q.—Here is what Mr. Pope has said about it. “It was cut out because from reports we had received it was considered not the equal of the other and therefore it was discarded.” I am only taking what he said? A.—Well, of course, that is all news to me, what you are telling me now, but I could not conclude from what you read that there has been any

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“culls” put on us. I think it is a thing that we will look into.

Q.—He says at page 48 that it was the remainder of the lands mentioned in the agreement out of which they had the right to make the selection, “but,” he says, “that does not form part of the 200,000 acres” they had selected.

“Q.—This is part of the land reserved, that was reserved? A.—Yes, but not of the 200,000 acres.

“Q.—Part of the reserved land? A.—Land thrown back on the C.P.R.—part of the land that had been returned to the C.P.R.”

A.—That would necessarily be the case if they had selected 200,000.

“Q.—And that was land—that 17,000 acres—that you had inquired, while you and Mr. Fowler were in Winnipeg in the latter part of November, 1902, and obtained information about? A.—And in our selection had discarded.

“Q.—Now what was the sale to comprise to the New Ontario Farm Site Syndicate, how many acres? A.—Well, they were checked off the list. They were all checked off, you see, and they would sum up to 190,000 odd.

“Q.—193,937? A.—Yes, well, that is according to the check list that was handed to them.

“Q.—And these 8,640? A.—No, that has nothing to do with the sale.” “Mr. Fowler was interested in that.”

He thinks there was somebody else interested and the 8,640 acres were part of the 17,000. Now, that is the statement that I have from that? A.—Have you anything to meet this, if they went on and selected 200,000 acres, there is no doubt that there was there an immense tract of land that the C.P.R. had; if they selected 200,000 acres there would be very many more acres just as good as the 200,000. It would not follow that because they did not select what was there that therefore they were of a poorer quality.

Q.—They had a certain larger area out of which they were permitted under their contract to select 200,000 acres. Presumably they would select the best 200,000? A.—I would think so. You have seen the map, the way they made their selection? Q.—Yes. A.—Well, every alternate lot—you get into a settlement and you take every alternate lot. Now that 8,000 was just in the same settlement and

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was every alternate lot in the same way.

Q.—This is what Mr. Fowler says:

“Q.—You sold out the property?

A.—Yes.

“Q.—How much did you sell to the Great West Syndicate? A.—I could not give you the exact figures, 193 and some odd acres. I could not give you the exact figures.

“Q.—You had a contract for 200,000 and you were dealing with them on the basis of 200,000? A.—I suppose we were.

“Q.—Then were they to make the selection for themselves? A.—No.

“Q.—How did they fall down to 193,000? A.—We sold them 193,000; we gave them a statement of the sections they were to get and it footed up 193,000.”

A.—I do not agree to that.

“Q.—Did you give them a statement of all the selections you made that had been reserved for you? A.—No.

“Q.—What statement did you give them? A.—We gave them a statement of certain sections.

“Q.—Why didn't you give them a statement of all the sections that had been reserved by the C. P. R.? A.—Why should we?

“Q.—They were negotiating for 200,000, you say? A.—Well, about—there was no special amount, they were negotiating for about 200,000.

“Q.—Had you made your selections at this time? A.—Yes, I think so.

“Q.—All your selections? A.—Yes, I think we had made all our selections at that time. Mr. Lefurgey and I took the matter up at the House at Ottawa, and we selected about 193,000 from the 200,000.

“Q.—Had you made your selection of the 200,000 at that time? A.—Yes.

“Q.—Do you remember how much it made? A.—I think over 200,000, about 800 acres. I don't just remember. Something over. I think you know.

“Q.—You had selected 200,000 acres. Then you did not agree to sell all you had selected to the New Ontario Syndicate? A.—I told you what we did. We made a list of the lands, Mr. Lefurgey and I made a list of the lands that were to go to them and our agreement was selling these certain lands. It may have been spoken of as 200,000 acres, but in the deal the list was with the contract. Mr. Bennett understood that. We all understood it.

“Q.—Is it not true that you agreed to sell 200,000 to this Ontario Farm and Town Site Syndicate? A.—

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Well, we made out the list you see. I say the amount may have been placed at 200,000 and we gave a detailed list of the lots, of the sections with that agreement. It would be like 200,000 more or less, you see.

“Q.—Why didn't you give them all that you had got from the C.P.R.? A.—Well, we all thought there was no necessity for doing that. We talked it over and we thought we would not sell all. We were all consenting parties to that.”

A.—I would not agree with that, that it was like “200,000 more or less.” In other words, if I sell you a farm representing it to be 200 acres, if it happens to be less or more, well and good, you have to take it; but if I sell a farm representing it to be 200 acres and then carve out of it two acres, although it may still be 200 I would think that quite a different transaction.

“Q.—What was the remainder being retained for? A.—Well, we retained it. We thought we would form a little corporation and hold it.

“Q.—Have that for yourselves? A.—Yes.” That is all news to you? A. Yes. The only other news I would like to get is, what is the location of that 7,000 acres?

Q.—If we can get the original contract between the C. P. R. and Pope and Fowler and get their selection, we can locate it? A.—There ought to be no difficulty in getting that from the C.P.R.

Q.—No, no difficulty in the end. What I have been reading from is the examinations for discovery of the parties in the suit I have spoken of? A.—I understand that that is Fowler's statement?

Q.—That last was from Fowler's, yes.

(Adjourned to two o'clock.)

AFTERNOON SESSION.

Resumed at 2 p.m., October 11th, 1906.

Examination of MATTHEW WILSON, K.C., continued:

MR. SHEPLEY: We have diverged for a few moments from the main current of the Inquiry, you were telling us about the negotiations which resulted in the formation of the Great West Land Company, and you had reached the point at which you were negotiating with the Union Trust

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Company with the directors? A.—Yes.

Q.—You have I think in the interval been refreshing your recollection by looking at the minutes? A.—I have looked at the minutes and I find that the matter was brought up at three regular meetings in the minute book, and it is possible what I speak of as an informal meeting may have been a formal meeting.

Q.—Is this the first, the minute of the 3rd June? A.—I did not think so, I thought there was one before that? (Looks at minutes.) A.—Yes, I believe that minute on page 237 is the first minute in the book.

Q.—That is the minute of the 3rd June, 1903? A.—Yes.

Q.—The other minute you refer to is the minute of the 23rd June, I take it? A.—Yes, and there is another one subsequent to that again some place just following it.

Q.—9th July, that is the meeting which has been already referred to, the meeting of the 9th July, when the direct conveyancing was reported instead of the round-about or circuitous conveyancing? A.—I can only speak from reading the minutes; of course I cannot recollect the dates of the different meetings.

Q.—Do you at all modify what you said this morning as to discussions taking place prior to the formal proposition being laid before the Board? A.—No, I do not, except to say that may have been a formal meeting instead of an informal meeting.

The people who are entered in the book as being present are the people who I said I thought were present at the informal meeting.

Q.—And do you think it possible that there was no discussion with the members of the Board until the 3rd June at the date the meeting was held? A.—I cannot fix dates at all there is no doubt—

Q.—The first meeting at which any reference is made to this is 3rd June? A.—Yes.

Q.—Do you think before the matter was brought in a formal way before a regular meeting of the Board it was discussed with the individual directors? A.—No doubt about that.

Q.—You have no doubt about that? A.—No.

Q.—That is individual directors other than your three selves? A.—Before the agreement was laid before the Board; you see there was the discussion at a meeting which I call an informal meeting which may turn out to be a regular meeting, at which I

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raised the objection which I mentioned. Now that meeting did take place and that may be the meeting which is recorded there.

Q.—You are not quite sure about that, but it may be? A.—It may be.

Q.—If it is the first time at which there was any discussion with individual members of the Board then there was none before the proposition was laid before the Board as a Board? A.—Quite so.

Q.—In the working out of the interests under that agreement who negotiated with the members of the old small company, the New Ontario Farm and Town Sites? A.—The negotiations I think were all worked out by Mr. Foster with the assistance I think of Mr. Curry. Mr. Curry I think was the solicitor for the old people.

Q.—Mr. Curry will be on one side of the negotiations and Mr. Foster on the other, representing separate or diverse interests? A.—I did not understand there was any antagonism at all.

Q.—I did not say antagonism but diverse interests? A.—One was like vendor and the other purchaser, as I understood it.

Q.—That is the old small company which was to be turned into a large company, the owners of that were one side selling and your syndicate were the other side buying? A.—Yes, but still we had confidence enough in Mr. Curry to let him draw all the conveyances.

Q.—But he was representing the other side? A.—I understood so, and I think that is the case.

Q.—You had nothing to do at all with their allocation of the result, between themselves? A.—Oh none whatever, that is between Mr. Curry and those associated with him?

Q.—Yes? A.—Nothing whatever at all.

Q.—Can you tell us how you arrived or how the amount of stock to be allotted to them was arrived at? A.—No sir, I cannot.

Q.—Mr. Foster was in charge of that for you? A.—They had their interests quite independent of us.

Q.—Don't you see they had each a share, that is what they were entitled to? A.—Five people were entitled each to a share, but then in addition to that there was a number of people possibly a dozen in all that were entitled to a much larger number of shares.

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Q.—They were entitled under the proposition that they had been conducting with Pope and Fowler, but that proposition was being dissolved and put away and you were asked to come in? A.—But they were nevertheless keeping the shares that they had, and they did keep them until, and I think some of them have them yet, but a long time after that I bought as many as I could off of them.

Q.—Never mind about the subsequent purchase, what were the terms of the arrangement between Pope and Fowler and them? A.—I do not know at all.

Q.—Never saw that document? A.—No. Well, I won't say I never saw it, I have no recollection of ever seeing it and I was not interested in it.

Q.—When they could not pull together were they retaining anything or giving something up? A.—They were retaining everything.

Q.—Who was giving up? A.—Do not understand me now about could not pull together in any offensive sense.

Q.—I do not mean it so? A.—I do not understand they were giving up anything, I understand they were keeping their interest.

Q.—Just where they were before, only that their interest now would be financed by somebody else? A.—I do not quite know whether you mean—you see they were not affected at all by Pope and Fowler's first sale to us of the half. Then when Pope and Fowler made the second sale we were only buying Pope and Fowler's interest, whatever that might be, we were not interfering with whatever right VanDusen, Colonel Shaw and Dale and those parties had.

Q.—That is what I understood from you this morning till something you said this afternoon made me doubt it; then if you were purchasing Pope and Fowler's interest you must have become aware of what that interest was between Pope and Fowler and these gentlemen? A.—Certainly, that is we became aware Pope and Fowler had a clean quarter interest and had in addition to that what would represent $107\frac{1}{2}$ shares, that I think was the total they had which would pass on he second option.

Q.—What would be the clean quarter interest? A.—That would be $237\frac{1}{2}$ shares; this is the way we got at it, take a quarter of 950, that would be $237\frac{1}{2}$, would it not?

Q.—Yes? A.—That is the quarter interest.

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Q.—That is the quarter interest they had? A.—Yes, clear; then in addition to that there would be $107\frac{1}{2}$ shares of the last quarter, then VanDusen, Shaw and Curry and these people would own the remaining shares of the last quarter, which added to $107\frac{1}{2}$ would make $237\frac{1}{2}$.

Q.—Dividing it into quarters, one-quarter belonged to Pope and Fowler and the other quarter belonged to the two syndicates or parties in the proportions of $107\frac{1}{2}$ and— A.—Enough to make up the $237\frac{1}{2}$.

Q.—The difference between that and the $237\frac{1}{2}$? A.—Yes.

Q.—5—In your dealings with what was being done in respect to these shares of Pope & Fowler, the $237\frac{1}{2}$? A.—They were to be given to the Trust Company.

Q.—Why? A.—I do not mean given as a gift, but that was to be part of the compensation to the Union Trust Company for the Union Trust Company financing the matter according to that agreement.

Q.—That was to be the compensation? A.—Part of the compensation.

Q.—Do you agree with what the other witness said and what appears upon the record that the Union Trust Company was to be entitled to that whether it financed by way of taking an interest in the shares of the company or whether it financed by way of merely advancing the money? A.—Originally the Union Trust Company was to be the absolute owner of that.

Q.—I am speaking about originally? A.—The agreement sets that out and that agreement is absolutely accurate.

Q.—What about that 100 shares to the doctor? A.—That 100 shares was part of the $107\frac{1}{2}$ shares which was remaining as I mentioned before.

Q.—How did that come to be given to the doctor? A.—It was given to the doctor, I cannot just say how it came to be given, but it was left over; I can only tell you what took place.

Q.—That is what I want to know? A.—The $237\frac{1}{2}$ shares were to be given to the company clear, there were the $107\frac{1}{2}$ left; the number of directors for the company, that is the Great West Company, had not been settled upon, all the directors that would be brought in were to get ten shares of paid-up stock free just the same as Mr. Scholfield and Sir John Boyd. That 100 shares was then placed, according to my recollection, in Dr. Oronhyatekha's

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name because they did not know then just what would be done in the future; when that was done Mr. Foster said he had done a good deal of extra work with that and had been to a good deal of trouble, and there were $7\frac{1}{2}$ shares there that he thought ought to be put in his name.

Q.—Beneficially? A.—Yes. I remember the agreement was altered giving him $17\frac{1}{2}$ shares where he had previously ten shares.

Q.—That is he had $17\frac{1}{2}$ shares as against your ten and Mr. McGillivray's ten? A.—Yes, and Sir John ten and Scholfield ten.

Q.—I am only speaking of those who were in the same interests, that is something we did not learn from Mr. Foster, that $7\frac{1}{2}$ shares that was given to him he demanded it in consideration of the trouble he had been at? A.—I would not say he demanded it, but that is the way he put it.

Q.—He said he ought to have it? A.—I was perfectly content, I did not want, and would not have it.

Q.—He said he ought to have it and you and Mr. McGillivray agreed he should? A.—I think everybody agreed.

Q.—I am not concerned with the rest just now, you agreed and Mr. McGillivray agreed? A.—Yes, I made no claim to it whatever.

Q.—The 100 shares that went to the doctor do you say he was not entitled to those beneficially? A.—No, I do not say he was not entitled to them beneficially; I do not put it that way.

Q.—You said something— A.—Speaking from my recollection I do not think any trust was declared at all upon the agreement or upon the face of the document.

Q.—I know there was not, I want to know what the understanding was, what was said? A.—The understanding from what was said was that he would use those shares either to qualify directors in the future or as we and the Trust Company would think they ought to be used for the benefit of all parties to work out the transaction as best we could.

Q.—Do you say he was a trustee? A.—I will not say he was a trustee because my recollection is that the document was so drawn that he was not a trustee in the document.

Q.—I mean on the facts and in the intention of the parties was he a trustee or the owner? A.—That would be a question of law.

Q.—What was your intention? A.—My intention was not otherwise than what I tell you, that is this: I laid no claim to those shares whatever, they were not part of my half in which I was interested, they were put in the doctor's name absolutely. My expectation was, and I have not a bit of doubt of it to-day, that they would be used as the directors of the Trust Company saw fit.

Q.—I should take it from that you thought the doctor was holding those as representative of the Trust Company? A.—Well —

Q.—At all events your syndicate had no interest in that 100 shares or in the 237 that was to be given to the Trust Company? A.—I certainly had not, did not claim any.

Q.—The transaction did not involve your paying for those shares or anything of that sort or your giving any value of that kind for them, your syndicate I mean? A.—The transaction involved our handing those shares over.

Q.—Or their being handed over by those who were entitled to them under the arrangement with Pope & Fowler? A.—That would be Foster, McGillivray and myself.

Q.—No, you were making the Union Trust Company buy out Pope & Fowler? A.—No sir.

Q.—We won't put it so then; you were getting the money from the Union Trust Company to do it with? A.—I do not put it that way at all either.

Q.—That was the way it was? A.—No, it is not.

Q.—You did not get the money from the Union Trust, that is all a dream? A.—Yes.

Q.—And Pope & Fowler did not get the money of the Union Trust Company and the C.P.R. did not get the money of the Union Trust Company? A.—The Union Trust Company did pay the C.P.R. and it did pay Pope & Fowler.

Q.—You formed your Great West Company and you bought those 8,640 we have been told about, and subsequent to that there had been some dealing in the shares? A.—Yes.

Q.—You purchased a good many shares? A.—Purchased all I could.

Q.—From whom have you purchased? A.—I think I have bargained for, not completely purchased, bargained for the shares of everybody now except Mr. Curry's and except

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those five, one share each that you spoke of.

Q.—That is you have purchased everything on your own account? A.—Yes sir.

Q.—You have purchased everything that these syndicate gentlemen had, the Curry party, except Mr. Curry's shares and the five shares which represented the original shares? A.—Yes. Mr. Curry objects to you calling it the Curry party.

Q.—We are only calling it the Curry party because his name is most easily remembered. Would you object to tell us what you paid for those shares? A.—I do not think you ought to ask me that.

Q.—I have asked you first whether you objected and I think I am entitled to ask you that? A.—I do not think I ought to tell, it is not for my own objection but I did not buy any of them personally; I bought them through agents; the whole of them I believe.

Q.—That is you were not disclosed in the transaction as purchaser? A.—Oh yes I was disclosed in the transaction as purchaser.

Q.—You bought them through an agent? A.—Yes.

Q.—Well? A.—If you want me to tell of course—

Q.—I see no objection to it? A.—If you would like to know I have paid in the neighborhood of 50 cents on the dollar; I think the lowest I paid was 47 cents and I think the highest I paid was 50 cents.

Q.—Do you mind telling me who your agent was? A.—It was either Colonel Shaw or Mr. VanDusen, I cannot remember which.

Q.—You selected an appropriate agent, these were the gentlemen who themselves were selling to you? A.—Yes, that is the man who sold to me—

Q.—And they would go to the rest of their flock and say, "We are selling, you had better sell too." At all events you got all this stock at an expenditure of about 50 cents on the dollar of the face value? A.—Yes.

Q.—Do you know of any other changes in the holdings? A.—I do not know of any other changes in the holdings by purchase at all unless you refresh my memory.

Q.—Then let us come to the time when Mr. Stevenson first commenced to find fault so we say with the situation; you met him on a train, he tells us, and you had some discussion on the train, do you remember that? A.—Yes, I would not call it finding

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fault; I remember telling him all about the transaction on the train.

Q.—Was he inquiring about it? A.—No, I think I volunteered it. The way the matter came up was in discussing the general question of directors and commissions.

Q.—What general question of directors? A.—That is the general question of directors having any dealings with the company.

Q.—How did that come up? A.—I cannot remember how that started.

Q.—Did not it start out by his commenting upon this very case? A.—No sir.

Q.—You say it did not? A.—It did not start out upon that at all.

Q.—How did the question arise, I would like to have you tell me how this abstract question commenced to be discussed between you as to the propriety of directors dealing with their companies? A.—That I cannot tell you how it originated a bit more than I could tell you if you and I met on a train and started a discussion.

Q.—You are probably not in a position to criticize any account Mr. Stevenson gives of that? A.—I do not pretend to criticize it.

Q.—This abstract subject having started in this particular way one thing led on to another till you were prompted to tell him all about this? A.—Not prompted.

Q.—You did tell him all about this? A.—Yes, there never was anything concealed at all, and if he had read the document it would have told him just as fully as I could tell him.

Q.—What did you tell him was the state of things then? A.—I told him just exactly as I have told you it was.

Q.—Did you? A.—Yes.

Q.—Sure? A.—Quite sure, and my recollection possibly then would be better even than now, because it would be nearer the occurrence.

Q.—You feel quite satisfied in your mind that you did tell him, gave the same account to him then as you have given to us now? A.—Yes.

Q.—Only if anything more accurate? A.—If anything more accurate, and if he had read the document he would have seen the same account there on the records of the company.

Q.—And I suppose the letters that were written immediately shortly after the conversation would be more likely to be accurate than we can be at this date? A.—I would think so, that is my letters would be more accurate in re-

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gard to a matter then occurring than it would be now.

Q.—You would not doubt that Mr. Stevenson's memory would be more accurate too than it is now; his memory then is more accurate than it would be now? A.—I think his memory would be more accurate then than now, but I do not think he had an accurate memory as to that. I remember distinctly where he made a mistake—

Q.—You wrote him a letter on the 3rd March in which you said without inconvenience you could arrange for some friends to take over the Great West Land Company as if the proposal had never been made to or by the Union Trust Company so that the new man would take Union Trust Company's stock and the doctor's stock and pay off the Union Trust Company, and then stand in exactly the same place under the agreement as the Union Trust Company now stands?

A.—Was that in answer to a letter from him?

Q.—It does not say so, it says I think I can? A.—I think that probably was written by me after a conversation with him.

Q.—He says so? A.—Then it is all right.

Q.—His answer to that is a letter to which I must call your attention, because you yourself answered it at the time; we will see what he said and what you said. "The suggestion you make could only be acted upon by all concerned. Of course I have no right to speak for Dr. Oronhyatekha, and indeed do not know how his interest would be by such a course, and in his present condition of health would not want to give him any worry"—A.—You understand the meaning of that?

Q.—What? A.—His remark there. I wanted to take the mortgage up, and have it assigned and take it right out of the Union Trust Company and then there would be nothing more about it, and he said in answer to that that he did not want to bother the Doctor about it.

Q.—And as you have assured him it would be closed out by sale in six months he would not—A.—Yes, I had not assured him it was closed out, but I expected the property would be closed.

Q.—He says "I do not want to be misunderstood either in reference to my position in connection with the matter. I did not precipitate a dis-

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cussion of the matter for the purpose either of criticising or changing the arrangements that had been made"—he speaks of himself as having precipitated the discussion? A.—No, he repudiates that.

Q.—No, he says "I did not precipitate it for a particular purpose?"

A.—That brings to my recollection what Mr. Stevenson did. Mr. Stevenson was discussing the future action of the Board of Directors and illustrated that by this transaction.

Q.—Then it was he who brought this transaction upon the carpet for discussion? A.—Yes, but not for the purpose of criticising or finding fault with this.

Q.—We have his letter as to that; a moment ago you thought you had voluntarily made a full statement to him about it? A.—I have no doubt I did.

Q.—Did he or did he not bring the subject up for discussion? A.—He may have brought it on for discussion, but it was after I brought it to his attention, that is I understand it he did not take the trouble to read the agreement, he had not read the agreement, I told him all about it; then he brought the matter on for discussion in the way in which he said in his letter.

Q.—"I did not precipitate a discussion of the matter for the purpose of either criticising or changing arrangements that had been made but for the purpose of having the future policy in relation to the matter decided upon?" A.—I think that is correct.

Q.—That means, I precipitated it, forced the discussion of this matter in order to determine the future policy? A.—And not for the purpose of finding any fault.

Q.—"As you are aware I did not know anything about the investment until you spoke of it last month on the train as we were on our way to Toronto to attend the annual meeting of the Trust Company. The understanding I got from your own statement was that Mr. Foster, Mr. McGillivray and yourself purchased a half interest in an Ontario Land Company—that the lands included lands the North-West Company acquired, and that by a division of the Ontario Land Company's land other parties took as you regarded undesirable lands took as you regarded undesirable or less desirable lands in Ontario"—that

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has no even family resemblance to the actual transaction? A.—Yes.

Q.—We got the less desirable lands in Ontario? A.—See he is speaking in that letter of something I had told him a month before. Then he had in his mind the Ontario lands that I spoke to you about at Nepigon.

Q.—Which you would not have anything to do with? A.—Yes.

Q.—And which the Great West Land Company had nothing to do with? A.—And out of which grew this purchase. Those two things came to us almost together.

Q.—There was no such thing as division of land by which undesirable lands got vested in some people and more desirable lands in others—was there any such transaction as that? A.—I do not mean to say that his understanding is accurate, but what I do say is that is a reasonable understanding from what actually took place when he is giving what he has heard a month prior to that.

Q.—See if I understand what you mean. You had given him a certain account of the transaction? A.—Yes, which was perfectly accurate.

Q.—He has drawn from that, taken away from that the impression that there were some desirable lands and some undesirable lands in Ontario? A.—Yes.

Q.—And that the result of the transaction was that the desirable lands got into your hands and the undesirable land into the other people's hands? A.—Yes.

Q.—Was that the transaction or anything like it? A.—That was like the transaction. Let me explain to you: you surely see that.

Q.—Surely Mr. Wilson you had rejected the Ontario lands and they formed no part of what you were discussing or dividing? A.—But I told him about the Ontario lands although we had rejected them and I told him about the other land which we thought we ought to accept, and I told him we refused to accept the Ontario lands and we did accept the other lands, and that is what he refers to.

Q.—By this division "The other parties took undesirable lands in Ontario;" if you think that looks like it we will get on to something else. "I further got the understanding that the interest thus segregated was a half interest in the North-West Land Company's lands, and that you three had paid for this half interest and you had assisted Mr. Foster to carry

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his interest or rather was carrying his interest." Did you tell him anything like that? A.—No, I told him something like that, that is I told him that it was a purchase that we had agreed for the half interest.

Q.—Did you lead him to suppose or did you leave him in ignorance as to whether you had paid for them, did you say you had bought them?

A.—I certainly did not leave him in ignorance as to whether or not we paid it, and I corrected that in the letter to him.

Q.—"Then as the opportunity was presented to purchase the interest of the owners of the other half interest, and that the Trust Company purchased this interest thereby becoming practically partners with you, Mr. Foster and McGillivray. Understanding the transaction in this way I saw no objection to it but as the matter was discussed at our meeting it was evident that I had obtained an erroneous understanding of that transaction, and as I then understood it it did not seem free from objection, and as you will recall I pointed out features that appeared to me to be objectionable." What meeting is he speaking of there? A.—I don't know.

Q.—Was there a discussion? A.—It would be evidently a discussion shortly prior to his writing that letter.

Q.—We will look at the minutes and see if we can find that because that may assist us to an understanding of this. Apparently there was a meeting on the 26th March, but that would be after this correspondence? A.—That I could not tell, what year is that in?

Q.—1904? A.—That would be all prior to the subsequent changes in the dealings.

Q.—Yes; the changes did not take place till November; it must have been a discussion which did not find its way upon the minutes; do you remember the discussion? A.—No, I cannot say I remember the discussion, but Mr. Stevenson and I personally have talked the matter over. I do not mean to say that particular matter, but the principle over very often, and we were entirely agreed upon the principle.

Q.—There is a report of the Inspection Committee—

MR. HUNTER: That would be the annual meeting that took place February 23rd?

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MR. SHEPLEY: I have found a minute here. There is this reference in the report of the Inspection Committee which was presented to the Board on the 8th February, and the Inspection Committee's report contains this clause: "Your Committee also examined the investments," etc. (Reads down to the words "your Committee found proper vouchers.") That is the only reference I can find to the Great West Land Company in the minute of the meeting immediately preceding that correspondence? A.—That is a report by the Chancellor and myself.

Q.—The Inspection Committee. What did you say you remembered of the discussion whether it went on the minutes or not, what was the discussion you heard and took part in preceding this correspondence? A.—I do not remember a discussion preceding that correspondence beyond the discussion on the train and the discussion as to the future policy of the company in which he and I were entirely agreed.

Q.—What he says is: "But as the matter was discussed at our meeting it was evident that I had obtained an erroneous understanding of the transaction?" A.—I do not recollect where he got the erroneous understanding.

Q.—Whether he was justified in taking that impression or not he had got it from your own interview on the train, that is manifest, you see that? A.—I do not; he certainly did not get an erroneous idea of the transaction from me on the train; he may have misunderstood or forgotten himself.

Q.—I say he may have misunderstood, that would be getting an erroneous impression? A.—Well if so.

Q.—Would not it? A.—All right then.

Q.—That was the erroneous impression he got, or the erroneous understanding as he calls it, and that was straightened out when the discussion took place at the meeting. Then he says: "The Trust Company ought to elect at once whether it will take stock at once?" A.—Yes, and I partly concurred in that.

Q.—"So that in all future dealings in reference to the matter it would be said that the directors of the company interested in the North-West Land Company could act uninfluenced by any consideration of a personal interest in the matter to be acted upon because of their interests in the North-West Land Company?" A.—And that was done accordingly.

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Q.—Do you think that exercising the option in either way would put an end to the dual position of the directors and the possible conflict between their duty and their interest? A.—I do not catch what you mean?

Q.—Do you agree with Mr. Stevenson in what he says? A.—I do.

Q.—You agree that if the option is exercised that the directors could act uninfluenced by any consideration of a personal interest? A.—Yes, I think possibly you are misunderstanding what Mr. Stevenson is referring to.

Q.—I think not. Mr. Stevenson has been pointing out to you and you had been talking about it on the train, a possible conflict between your interest as a syndicator and your duty as a director, that was the foundation of the thing, call it by any specious name you like, that would be the foundation of the whole discussion, was it not? A.—No sir, my interest not as a syndicator, but my interest as a shareholder and the company's interest as a shareholder.

Q.—Your interest as a Great West Land man and your interest as a director and your duty as a director of the Union Trust Company? A.—Yes.

Q.—That was the foundation of the whole discussion? A.—Yes.

Q.—Mr. Stevenson himself seems to think that if the Trust Company once elects either to take stock or to treat it as a loan that that conflict disappears? A.—That conflict does disappear in regard to the matter Mr. Stevenson was referring to.

Q.—Does it disappear as a matter to be dealt with and to be considered? A.—Yes, as to that matter which he was considering.

Q.—If you borrow the money you were personally interested as a member of the Great West Land Company in having your mortgage debt leniently treated by the Union Trust Company—I am not talking about any abuse at all. I am talking about the simple position, is it not the interest of the mortgagor to be treated leniently by his mortgagee? A.—Yes, but I was not—

Q.—Is it the interest of the mortgagee to be strict with his mortgagor? A.—Yes.

Q.—Do you not see the conflict between interest on the one hand and the duty on the other? A.—No.

Q.—We will pass to the other? A.—Hold on; I say you are not fairly representing the state of affairs, you

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are representing the state of affairs as if I was a mortgagor.

Q.—You are a member of the Great West Land Company and director of it, which was to be mortgagor? A.—Yes, if I am a member of the company which borrows money from the bank that does not make me the debtor to the bank.

Q.—Did not you have a hundred times as much financial interest in the Great West Land Company as you had in the other? A.—No, I had not as much interest in the Great West Land Company as the Union Trust Company had.

Q.—I am not asking you that, I am representing your financial personal interest, was it not greater in the Great West Land Company than it was in the Union Trust Company? A.—When you put my financial personal interest that is true, but you must remember I am a director of the Union Trust Company.

Q.—I am bearing that in mind? A.—And as such director I have an interest in 237½ shares while I had only personally—

Q.—You had an interest in 237½ shares in competition with— A.—With 158.

Q.—In competition with how many? A.—158.

Q.—Oh, no, no; how many shares have you in the Union Trust Company? A.—Ten.

Q.—How many shares are there? A.—Two and a half million.

Q.—And your thousand out of one and a half or two and a half million would give you such a substantial interest in the 237½ shares that it would altogether overbear your great interest in this Land Company? A.—No, I do not say that, and that is not a fair representation of the case.

Q.—I do not think it is either, I am trying to get you to see that your financial interest in the Great West Land Company is far and away greater than your financial interest in the Union Trust Company? A.—Personally, yes.

Q.—You do not see with your financial interest all pulling you in the direction of the mortgagor and your duty pulling you in the direction of the mortgagee that you occupy a position of conflict? A.—I never said anything contrary to that, what I mean to say is this, that a man serving on two Boards, which two Boards are dealing with one another, occupies a position you may say of conflict: that is a thing that occurs I suppose

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a thousand times in this city all the time.

Q.—What we are immediately considering, and what I gather you differed with me about was whether or not turning this into a mortgage removed that position of conflict? A.—I do not think that letter says anything of the kind.

Q.—Never mind whether it does or not, this turning it into a mortgage removed the conflict? A.—It does not remove any conflict that there may be from the fact of a man holding a directorship in two companies.

Q.—Would electing to take the stock remove that? A.—Nothing would remove that as I understand it.

Q.—Now we have it just where it seems to me we ought to have got at once, nothing can remove that? A.—Nothing can remove that, but I say and I think it was because you misunderstood me or misunderstood that letter—

Q.—Wait for a moment and hear the next thing. What the letter says is: "It should elect to take stock or determine that it won't take stock so that in all future dealings the directors of the Trust Company who are interested in the Land Company could act uninfluenced by any consideration of a personal interest"—that is what he says? A.—Yes.

Q.—You do not agree with that? A.—Yes sir.

Q.—What do you mean by that, that conflict is not removed? A.—No. I won't say you cannot understand me—

Q.—I like to stand upon the thing as it is? A.—As Mr. Stevenson puts it I agree with Mr. Stevenson.

Q.—What do you mean, do you mean that once the option is determined— A.—That removed what to my mind was a subject that ought to be removed, and I believe to Mr. Stevenson's mind was a subject that ought to be removed, so long as there was the power in the Union Trust Company to exercise an option to take stock or to treat the matter as a loan the Union Trust Company directors could say if the thing is successful. We will take stock, if the thing is not successful we will make it a loan. Now that was a position that I as a director would not want to be in or would not want to remain in, and therefore—

Q.—You are speaking now from the position of director of the Union Trust Company? A.—Yes.

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Q.—Supposing you treat it from the position of a director of the Land Company? A.—Treat it from the position of a director of the Land Company I would not want to be in it, and that is necessarily a conflict just the same as if you held stock in the C. P. R. Company and had a brief in an action against the C. P. R. Company, there is a conflict, and no person would ever suggest that that conflict would prevent you in doing your duty from holding your brief.

Q.—I do not know what would be suggested, the case has not arisen? A.—I think, Mr. Shepley, you will find in most cases where there are directors—

Q.—What you are saying amounts to this, and to this only, that with such directors as you were you do not think that conflict would swerve you from the line of your duty? A.—I am sure it would not swerve you, but I do not want to be in the position—

Q.—Are not you still in the position of conflict once an option is determined, that difficulty is not removed? A.—That cannot be removed so far as being on two Boards is concerned, but it does remove the one and the most—

Q.—The most flagrant? A.—What shall I say?

Q.—The most flagrant opportunity? A.—Yes, you may call it that.

Q.—The most flagrant opportunity of abuse is removed? A.—Yes.

Q.—The minor ones are left? A.—The most flagrant opportunity—I do not want to insinuate by that that any of my co-directors would abuse it because I am perfectly sure they would not.

Q.—I know we will all disclaim that. “In the event of it being decided to elect not to take stock for the investment then I think the individuals interested in the North-West Land Company should stand behind the loan to the extent of their interest as Messrs. McCormack and others did in the Kamloops Lumber transaction”—that I think was never done? A.—No, that was never done. I offered to do it so far as my share was concerned.

Q.—“Now you can easily understand it is a very embarrassing matter for me to urge any particular course of action after the matter has already been acted upon. If I had been present when the matter was proposed I would have opposed it just as I did when Mr. Foster and Mr. McGillivray asked me to join in a

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similar transaction when the Quebec Timber transaction was being investigated?” A.—That I had never heard of at all.

Q.—“It seems to me that the matter had better rest as it is until the Doctor’s return, and then be promptly taken up and disposed of?” A.—Yes.

Q.—You answered that letter, writing 26th March: “I quite agree with all you state except that you were in error in understanding that the three of us had actually paid our money for the one-half.” At that time you confirmed the understanding that he took from your conversation on the train as stated in this letter with the one exception? A.—Now, just as you read it to me I gather that letter is correct with one exception.

Q.—You do not see any other thing to criticise except the impression that he got that you had paid for this. Then you say: “It was only when we got our option on the other interest that we decided to bring that and hand it over without any profit to us to the Union Trust Company, and I was merely a consenting party then.” At the time you wrote this letter of course the option had been exercised to take the stock? A.—I do not recollect that.

Q.—Your letter says so? A.—Whatever the letter says is no doubt correct.

Q.—“It was then moved by Mr. McGillivray, seconded by Col. Davidson, and unanimously resolved that the Union Trust Company should take stock for their money.” Taking the stock for their money did not affect their title to the 237½ shares whatever it was? A.—Not according to my recollection.

Q.—Not according to your understanding of the transaction? A.—No.

Q.—And it did not affect whatever title the doctor had to his 100 shares? A.—Not according to my understanding of it; of course that would be a legal question.

Q.—How did the matter come to be raised again in November of the following year? A.—You would have to refresh my memory.

Q.—In November of 1905 what happened was that the stock which had been taken for the advances was surrendered and the advances were turned into a mortgage loan—you knew about that? A.—Yes.

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Q.—How did that come about? A.—The first I heard of it was when Mr. Foster wrote to me—I think on or about 4th November, 1905—to go to Toronto on the day prior to the meeting on the 7th November, that Mr. Stevenson had some new proposition in regard to the Great West Lands and gave me no information as to what that proposition was. I think the 7th November was on a Tuesday. I went down on the Monday and saw Mr. Foster and Mr. Stevenson that afternoon and they told me what the proposition was—

Q.—What was the proposition? A.—The proposition was for the Union Trust Co. to get rid of its stock and to compute interest upon the money that it had advanced from the time that the advances were made up to some convenient time, and then take a mortgage for the whole amount upon all the assets of the Great West Land Company.

Q.—That was the way in which it was put? A.—I am giving it to you shortly.

Q.—It was to give up its stock and take a mortgage—that is a little shorter still? A.—Yes.

Q.—What stock was mentioned? A.—All the stock which the Great West Land Company had issued to the Union Trust Company.

Q.—Was any differentiation made of the two classes of stock, stock for advances and stock for a bonus or compensation for financing? A.—I would call that not stock for bonus but stock as compensation for financing.

Q.—We will speak while we are discussing them now for the purpose of brevity as compensation stock and advances stock, what differentiation was made? A.—They were all to go back.

Q. What was said? A.—I cannot remember all that was said.

Q.—Was any reference from beginning to end of the conversation made specifically to the compensation stock? A.—Yes.

Q.—By whom? A.—By me.

Q.—What did you say? A.—I remember this one statement, drawing Mr. Stevenson's attention to the fact that 100 shares of that was in the doctor's name, and Mr. Stevenson said, "Well, that will be assigned too."

Q.—You remember that as a matter of recollection? A.—As a matter of recollection, I do not mean to say

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that that occurred on the Monday, but that that occurred—

Q.—I am trying to keep to the conversation on the Monday at present?

A.—On the Monday the discussion was more of a general discussion of giving up stock and taking a mortgage; it was very general, it had not got into a definite state then.

Q.—I want to know whether when you emerged from the discussion on the Monday you emerged with the idea that Mr. Stevenson was intending to sacrifice the compensation stock? A.—I did not emerge with the idea that he was going to sacrifice anything, but I did emerge with the idea he was going to give it up.

Q.—From anything he said? A.—Yes.

Q.—What did he say? A.—That I cannot recollect definitely, but the reason why I do say I emerged with that idea was that I went and discussed the matter with Mr. Scholfield and told him that.

Q.—What did you think from the standpoint of the Union Trust Company of his giving that up? A.—I thought and told him that I did not think that that change ought to be made at all.

Q.—You protested against it? A.—I told him I did not think it ought to be made.

Q.—But he insisted on giving it away you tell us—you were protesting and he was insisting upon giving away? A.—He was not insisting about giving anything away; what he wanted to get was to get the mortgage, and he did not think that the stock was of any material value at all.

Q.—Why did he want to give it away, it was not any detriment? A.—Of course it was not a detriment, but he wanted to get the mortgage; you see his taking the mortgage placed the Union Trust Company in an entirely different position.

Q.—It placed it in the position of re-exercising its option, I perfectly understand that? A.—No sir, I do not understand that; it was not a re-exercising of the option, it was a new arrangement entirely.

Q.—You have turned it into a new arrangement by what you have done with the compensation stock in it, in the origin of the transaction as the minutes plainly state, and as the agreement states, the Union Trust Company had a right to hold that

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compensation stock whether they took a mortgage or stock for the advance? A.—Quite so.

Q.—They had elected to take stock? A.—Yes.

Q.—Title to the compensation stock still unaffected? A.—Yes.

Q.—Now they elected to have a mortgage? A.—No, I think you as a lawyer would not say that; at all events I had advised there was no right to that.

Q.—You advised whom? A.—I had advised Mr. Scholfield.

Q.—You had advised Mr. Scholfield? A.—I had advised Mr. Scholfield.

Q.—And Mr. Foster? A.—No, I do not think I discussed it with Mr. Foster.

Q.—And Mr. McGillivray? A.—No.

Q.—Mr. Foster and Mr. McGillivray and you were the people who were to get it if it were given up? A.—Certainly.

Q.—Did you not discuss it with them? A.—You are talking about discussing one thing and I am talking about another.

Q.—I am talking about compensation stock being given up? A.—That is a different thing altogether; I had discussed that with the whole of them.

Q.—You did discuss that with all those who were interested in the direction of getting it handed over—of course Mr. Scholfield has no interest in it? A.—Not in the direction of handing it over.

Q.—Scholfield had no interest in it? A.—Scholfield had no interest in that at all.

Q.—Not the slightest in the world; why were you advising him? A.—You misunderstood what I was advising him about; after the election was made to take stock for all the advances I advised Mr. Scholfield that having made an election the Union Trust Company as shareholders in the Great West Land Company, and the shareholders in the Great West Land were co-shareholders in the Great West Land Company, and that was final. That is what I advised him, and under that advice of course since the Union Trust Company proposed changing that, I felt it my duty to tell Mr. Scholfield at once, because that changed the whole aspect, as well as the liability of the Great West Land Company.

Q.—Why was it your duty to tell him any more than your duty to tell anybody else? A.—Well, it was not any greater duty, except Mr. Scholfield took a greater interest in the

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Great West Land Company than anybody else.

Q.—He and the Chancellor were on precisely the same terms? A.—Well no, I do not think he and the Chancellor were.

Q.—Why? A.—Because we consulted Mr. Scholfield at almost every step we took.

Q.—They were upon the same footing in the Land Company, each of them with \$1,000 qualifying stock and \$4,000 of stock they had to pay? A.—Yes, so far as their stock was concerned.

Q.—Both of them Directors? A.—Yes.

Q.—And the Chancellor the President? A.—Yes.

Q.—Did you discuss it with him? A.—No, I had no conversation I think with the Chancellor about it at all, unless it was at the meeting. Of course if he was at the meeting then he knows all about it.

Q.—So you were pointing out to Mr. Stevenson that there was no necessity for the Union Trust Company giving that compensation stock away? A.—Now, Mr. Shepley, I do not think you are fairly representing me.

Q.—What were you saying about it to him? A.—I was saying to Mr. Stevenson that I did not think it advisable in the interest of the Union Trust Company to make that change. I thought the Union Trust Company would make more money out of it by not making the change.

Q.—That is that the Union Trust Company would make more out of it by not taking the mortgage, but holding the stock? A.—Yes, and afterwards in the meeting I mentioned that to Col. Davidson.

Q.—Mr. Foster says he will not undertake to say that there was any specific mention of the compensation stock at all? A.—Well, I cannot help that.

Q.—Any further than it would be embraced in a statement that the Union Trust Company would give up all the stock, which of course is a term, as you can see in a moment that would be perfectly satisfied by the advance stock. You see that, do you not? A.—No, I do not.

Q.—Don't you think it was desirable that it should be made perfectly plain to everybody concerned in the Union Trust Company, every Director of that company, that you should make it perfectly plain to them that

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the transaction did involve the transfer of the compensation stock? A.—And I thought it was perfectly plain.

Q.—Well then you did think is absolutely necessary that they should know that? A.—I did not give such a thing a thought.

Q.—You did not think it was necessary? A.—No. I tell you now I would say that I think it is necessary and advisable, but I did not give the thing a thought then, because everybody did understand.

Q.—Because you thought everybody understood? A.—Yes.

Q.—Did you take pains to see that they did? A.—Well, I thought I did.

Q.—By doing what? Tell me a single thing that you did? A.—Well I cannot recollect what I said with Mr. Stevenson in the early negotiations beyond that one specific thing. I do recollect that, because that occurred to me.

Q.—Speaking of the doctor's stock? A.—Yes.

Q.—That was rather an oblique way to mention it, because that does not mention the 237 shares at all? A.—Oh well, he knew that of course.

Q.—How did he know if you do not remember telling him? A.—Well, he was a co-director and he knew the whole transaction the same as I did.

Q.—He was trying to get the mortgage; that was what he was after? A.—Now see, Mr. Shepley, if you want to know. That was all after the conversation we had on the train, and all that discussion, and everything, so that he knew perfectly the whole state of affairs then.

Q.—Granted that he knew all perfectly, the present condition of affairs, what I am pressing you with is this: he says he was not aware, Mr. Davidson says he was not aware, that the transaction which was being carried through involved the giving up of that compensation stock? A.—Well, I cannot help that.

Q.—And I was asking you whether you did not think it was essential to the validity of such a transaction that everybody should perfectly understand what was being done? A.—Yes, and I have no doubt either that Mr. Stevenson when he says that believes that he was not aware. At the same time I am perfectly satisfied that he was aware at the time.

Q.—Did you have any discussion with any other Director before the meeting of the 7th November was

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held? A.—I do not think so. I do not remember at all events.

Q.—You do not remember that you had? A.—No.

Q.—What took place at that meeting on the 7th November when there was an adjournment about this subject? A.—Well, the matter was discussed and gone over, and it may have been at that meeting. At all events at one of the meetings I told Col. Davidson the position that I took in regard to the matter, that I thought that it was inadvisable in the interests of the Union Trust Company to make the change. I thought that the stock would be valuable, and as representing the Union Trust directorate I was not in favor of it.

Q.—That was the way you put it to him? A.—Yes. That was either at the meeting of the 7th, or at one of the subsequent meetings.

Q.—That is the way you put it to him, and did you put it to anybody else? Do you remember anything else you said? A.—No, that is the substance of what I said; what I said of course any of the others that were listening could hear it.

Q.—As a director of the company you were advocating changing the policy of holding stock for advances? A.—In that case I was advocating—

Q.—You were advocating the policy of not converting your advances into a mortgage? A.—Yes, in that case.

Q.—As you put it in that way, this is not a desirable change for the Union Trust Company to make; they will make more money out of their stock. It is better to have the stock than the mortgage. That is the way you were putting it? A.—I do not think I thought they would make more by keeping the stock than by taking a mortgage.

Q.—Better for them? A.—Yes.

Q.—That is what you were saying to Col. Davidson? A.—Yes.

Q.—Have you something else to add? A.—There was also a question of interest discussed. The interest was to be charged.

Q.—Did you say to Col. Davidson "Of course if we do that we are going to take away that compensation stock?" A.—I do not recollect saying that to Col. Davidson.

Q.—You do not recollect saying that to Col. Davidson? A.—No.

Q.—And if you did not say it to him, you heard nobody else say it, and you heard no discussion about it

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either then or at any time? A.—Oh well, I won't say that.

Q.—Did you hear any then? A.—I have no doubt myself at all that that was discussed, at the same time I cannot recollect just what took place. I cannot recollect what was said by one or by another, unless there was something to draw my special attention to it.

Q.—You have told me what you said? A.—Yes.

Q.—And you have no recollection of hearing others saying anything? A.—I have no doubt they did say something. Col. Davidson answered me.

Q.—You have no recollection of it? A.—I have no recollection of Mr. Davidson's answer.

Q.—You have no recollection of yourself or anybody else saying more about the desirability of maintaining the status quo than you told me you said? A.—At those meetings I have not.

Q.—Then you would agree with Mr. Foster when he says that as far as he can recall no specific mention was made of the compensation stock? A.—I do not know if it was spoken of either by that name or as bonus stock, but specific reference certainly was made to this stock which would cover 337 shares.

Q.—By whom? A.—By myself in the way that I mentioned.

Q.—In the way you mentioned, you did not say a word about it? A.—Yes, I did.

Q.—You have told me you were advocating the policy of maintaining the status quo, that you were saying it was better for the company, that they would make more by holding the stock than by turning it into a mortgage, and that you said nothing specific about the compensation? A.—Mr. Shepley, did I not tell you that I said to Mr. Stevenson that 100 shares of that stock stood in the doctor's name?

Q.—You told me that with reference to the meeting that took place before this Board meeting. I am speaking now about the Board meeting? A.—I will not say whether it was at the prior meeting; I think I told you, it was either at the prior meeting or at the Board meeting that was said, and at the Board meeting I do recollect a resolution being read.

Q.—You recollect the resolution being read? A.—Yes.

Q.—That is on the meeting of the 7th? A.—I would not say whether it was on the 7th or on the subsequent

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meeting; I would be inclined to think it was later.

Q.—At the meeting of the 7th the minute is: "After some discussion the meeting adjourned?" A.—Well, my recollection is that the matter was discussed at either three or four separate meetings.

Q.—I am trying to get them one by one if I can. There was a meeting on the 7th when the adjournment took place, and that is the only one I asked you about so far, and you have told me that at that meeting in the course of the discussion you did what you said, you advocated the retention of the matter in its present position, seeing the company would make more by holding the stock than by taking a mortgage, and you made no reference specifically to the compensation stock that you could recall. Then the adjourned meeting is said to have taken place on the 13th, and a certain motion is attributed to Mr. Stevenson. You were aware of that of course? A.—Yes, I was told about it.

Q.—Who prepared that motion? A.—I can speak only from recollection. Speaking purely from recollection I would say that Mr. Stevenson prepared that.

Q.—You would say, speaking from recollection that Mr. Stevenson prepared it? A.—Yes.

Q.—What is your recollection that makes you say that? A.—The only thing that would make me doubt my recollection is this, that Mr. Stevenson is perhaps the man of all the men at the Board who always writes his resolutions, and I may have got that idea from his practice, but I do distinctly recollect the resolution being read.

Q.—I will come to that. First I want to know what recollection you have at all on the subject of who prepared it? A.—The only recollection I have is that I believe Mr. Stevenson came in to the meeting with that resolution in his hands. That is my belief. I may be inaccurate in that.

Q.—Do you recall seeing him bring it in and hearing him read it? A.—I am not going to be certain about a thing of that kind. It is too long ago.

Q.—What impression do you wish us to take as being the impression your memory bears? A.—That he brought that in written out before he came in.

Q.—That he brought it in? A.—Yes.

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Q.—Already prepared? A.—Already prepared.

Q.—In the form in which it now appears? A.—Yes.

Q.—Your recollection is that he brought it in? A.—Yes; that is speaking from recollection. I am not going to be certain about it.

Q.—And he is not a man who is subject to mental aberration, I suppose, that you ever observed? A.—No, indeed. I think Mr. Stevenson is a very able man and a very honorable man.

Q.—A very honorable man, and do you think he could possibly prepare, I was going to say even read such a resolution without apprehending that the compensation stock would be given up? A.—Oh, certainly, I have not a bit of doubt of that.

Q.—Of what? A.—In my mind, that he knew perfectly well.

Q.—He must have if he either prepared it or read it. He must have known that that involved giving up the compensation stock? A.—Yes.

Q.—And you have heard him say that he never dreamed of such a thing? A.—No, I did not.

Q.—You know he has said in the witness box under oath— A.—Yes, I know perfectly well this, that if he had said that at the meeting they never would have got the mortgage.

Q.—So you say now? A.—Well, I think that is the case. Possibly I put it too strong.

Q.—You know the Trust Company could have wound you up with the stock they held. They could have wound you up if you had not done what they told you, they could have controlled the Land Company? A.—You mean to take proceedings to wind up the company?

Q.—They could have controlled the policy of the Land Company so that the Land Company would give the mortgage? A.—I feel certain—

Q.—You were masters of the situation—the Union Trust Company was? A.—Don't misunderstand me. I would feel perfectly safe then or now in the hands of the men representing the Union Trust Company. I would put myself in the hands of Dr. Oronhyatekha and Mr. Stevenson to-day with perfect confidence that they would do nothing improper.

Q.—What did you mean when you said if they had said that they never would have got the mortgage? A.—Because I do not believe they would.

Q.—Who would have prevented them? A.—Take this; if they had re-

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fused to give up that stock I think the thing would have appealed to them as so unfair that they never would have—

Q.—The thing was so unfair that they should not give it up, although the day before you yourself were saying that it ought not to be given up? A.—Yes.

Q.—But they would have thought it unfair not to give it up. Now I understand you. You did not mean to affirm that you were so master of the situation that you could prevent them from taking the mortgage, but you venture to say you thought they would think it was fair— A.—I do not want to say I was master of the situation at the time.

Q.—What you did say was that if that had not been in the resolution they never would have got the mortgage; that is your own language? A.—I do not think they would, I do not wish to qualify that at all.

Q.—You think Stevenson brought that resolution in already prepared, and do you think he read it to the meeting? A.—Yes, I think that he read it.

Q.—Do you recollect his reading it? A.—Well, I cannot state further than what I say.

Q.—Do you think there was really a meeting at all that day? A.—I am perfectly sure there was a meeting.

Q.—What makes you say that? A.—Because I remember being at it.

Q.—How do you fix the date? A.—Well, speaking from dates, I cannot fix the date, but I fix the date first by the letter which Mr. Foster wrote to me on the 4th saying that he enclosed to me a notice of meeting for the 7th, and asking me to come down on the day before the 7th to discuss this proposition which Stevenson had in regard to the Great West Land.

Q.—Have you the letter from Mr. Foster to you? A.—No, I have not, but the copy is there in the letter which I believe your representative saw. Then in addition to that, as to fixing the date—

Q.—How does that fix the date? A.—Because this letter which is dated on the 4th says "Come down on the day before the meeting" and I went down on the Monday.

Q.—Which would be the 6th? A.—Yes, and that would be the meeting on the 7th, the letter saying "I enclose you notice of meeting for the 7th."

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Q.—That is how you fix the meeting at which Stevenson prepared and moved a resolution? A.—No, that is how I fix the meeting at which we first discussed the matter. Well then I fix that meeting otherwise by—I looked up a little diary that I carry where I put my appointments, and turning to November 7th I find that I have noted here, "Union Trust Company Directors 10.30 a.m." and my practice is whenever I receive a notice of a trust company meeting I put the date of it in my diary and then throw away the letter.

Q.—Now, then, you have got me to the 7th, that is the way you fix the 7th, and have you anything further to add as to your method of fixing the date that I asked you for first? A.—No, nothing else that occurs to me.

Q.—Then does that satisfactorily fix in your mind this as a proposition; that Mr. Stevenson introduced on any particular day this resolution? A.—No sir, you were merely asking as to the date.

Q.—I was asking you as to the date of the meeting at which you are clear that Mr. Stevenson read a resolution? A.—Oh no, sir.

Q.—That is what I was asking you about? A.—I thought you asked me first whether there was a meeting at all on that day, on the 7th, and when I said there was you asked me how I fixed the date, and I said how I did it.

Q.—I had got past the 7th, and I asked you some details about it, and then I asked you about the date the resolution was introduced? A.—The way I fix that is that I have on the 13th in my memorandum book just in the same way, U.T. Company 10 a.m., and if you turn through that book for all the other meetings of the Union Trust Company or through the book for this year which I now have, or the prior book, you will find all entries just the same way.

Q.—You put your appointments in this do you? A.—Yes.

Q.—Has that entry on the 7th, this about the Trust Company, anything to do with this? A.—I think that has. I think in all probability I was either asked to go, or that I did come, having been previously asked an opinion as to power to hold lands, and I think likely that refers to the Union Trust Company, but it may refer to some other company. I cannot say certainly that it does refer to the Union Trust Company.

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Q.—Have you any objection to my having this marked, A.—I would not like to leave that because I have to refer to it from day to day, but I have no objection to your keeping it.

Q.—Do you have to refer to your diary for 1905? A.—Yes, I often have to look it up, but I have no objection to your keeping it till I write to you for it. but please be careful not to lose it.

JUDGE MAC TAVISH: It will not be lost.

MR. SHEPLEY: We do not throw things away when we have made an entry about them.

WITNESS: I do not want it to remain. (Book exhibit 580.)

Q.—I understand that, and it will be returned to you when you ask for it. Then you heard, or you have read perhaps what Col. Davidson says about his recollection of that meeting? A.—Yes.

Q.—Is he an honorable man too? A.—Oh yes, certainly.

Q.—Neither he nor Mr. Stevenson would be people who would be likely to invent a story? A.—No indeed, very far from that.

Q.—Neither of them are men who are likely to forget what their attitude was upon a particular business proposition as they understood it? A.—If Mr. Stevenson understood it I am quite sure he would not forget it.

Q.—If Mr. Stevenson understood it you are quite sure he would not forget it? A.—Yes.

Q.—And would you not say the same of Col. Davidson? A.—I cannot say that Col. Davidson has been as careful and attentive—

Q.—Not of so accurate a mental habit as Mr. Stevenson? A.—You know Col. Davidson as well as I do.

Q.—No, I do not. Well then you recollect the terms of that resolution, and it is drawn in a way that I want to call your attention to. Before we get to that, you know the attendance book of course? A.—Yes sir.

Q.—And do you agree with what the witnesses who have spoken about the subject have said, that the custom was to pass this attendance book around among the directors as soon as they took their seats? A.—Yes, or shortly after.

Q.—And would you or would you not expect if a meeting was held, to find the attendance book signed? A.—Yes, as a rule.

Q.—Why do you say as a rule? Would you not be surprised if it was

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not so? A.—Yes, if it were not so, except something that occurred in one instance.

Q.—What particular instance are you speaking of—this particular instance?

A.—No, I do not know whether it was this instance or not. There was one time when the book was lost.

Q.—And then it was found again? A.—Yes.

Q.—You do not know when that was? A.—No, it was sometime ago. It was months ago if not longer.

Q.—If not years ago? A.—But I know it was lost.

Q.—Who knew that it was lost besides you? A.—I think that every person who came to the meeting must have known at the time that it was lost.

Q.—Whom did you hear say that it was lost? A.—My recollection is it was Mr. Foster himself said it was lost. That is my recollection.

Q.—You do not fix a date for that? A.—No.

Q.—But on that particular occasion the attendance book could not be signed because Mr. Foster said it was lost? A.—Yes, I remember there was an occasion of that kind.

Q.—Mr. Foster does not seem to have remembered that? A.—Well, I cannot help that.

Q.—I suppose other directors would know about it just as well as you and Mr. Foster? A.—Certainly.

Q.—Do you suggest that that was at the time these meetings were held? A.—No, I make no suggestion about that at all.

Q.—Well then have you looked at this recently? A.—No, I have not, but I was told about it.

Q.—Look at it please? A.—I was told that at the meetings of November that there were no signatures there, and apparently between November 7th and December 26th there are no signatures there. There is a blank space of a page and a quarter in the book.

Q.—All the November meetings are not absent; it is only the meetings of the 13th and 28th? A.—I said between November 7th and December 26th.

Q.—November 7th has the signatures? A.—Yes.

Q.—And December 26th has the signatures? A.—Yes.

Q.—At how many meetings do you remember the statement being made that the attendance book was lost? A.—I cannot recollect that. It was a

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thing that was not impressed on my mind so that I do not recollect it.

Q.—You think Mr. Stevenson brought this motion in writing and read it himself? A.—Now of course I am just speaking of a recollection. I am not stating that positively.

Q.—I want you to discuss with me a little the terms of the thing itself. His motion would commence "Moved by the Hon. E. G. Stevenson" would it? Does he put the Honorable when he writes his own name? Is he that sort of a gentleman? A.—I would not think so.

Q.—That would not indicate that it was his composition so far? A.—Pardon me, I do not think he would write it that way at all. I think he would write the substance of the resolution. The way that is frequently done, and I think generally done at the Board, is that the substance of a resolution will be put down, and then they ask "Who moves this and who seconds this" and I think Mr. Foster would be the one who would jot down the mover and the seconder, and Mr. Foster would certainly be the one who would dictate the minutes pursuant to that.

Q.—You do not think the thing that is written down in the book is a copy of what Mr. Stevenson presented? A.—I would think it would be a copy of the resolution. Mr. Stevenson's paper would not name the mover and the seconder more than what Mr. Foster would jot down. Suppose Mr. Stevenson wrote down, "Moved by Smith, seconded by Jones that so and so be done" when Mr. Foster would go to write it out in the minutes he would very naturally put it, "Moved by the Hon. E. G. Stevenson and seconded by Col. John I. Davidson." Mr. Davidson would never put "Lt.-Col." before his name, nor would Mr. Stevenson put "honorable" before his name.

Q.—Then I do not suppose that Mr. Stevenson would have written out in advance before he came there these words "After a full discussion in reference to the Great West Land Company it was decided?" A.—I would certainly think not.

Q.—That is somebody else's work upon the minutes? A.—Yes.

Q.—Whose? A.—I would think Mr. Foster. Now you are as able to judge of that as I am. I am not giving evidence as to that.

Q.—I am drawing your attention in connection with the circumstance that you think you remember Mr. Steven-

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son bringing this motion there ready prepared and reading it, I am drawing your attention to the inherent condition of the minutes themselves. Then it goes on that the Union Trust Company should assume the position of mortgagee with reference to its advances and payments to or for the Great West Land Company. Now that is a complete motion and carries out everything that you had advocated at the meeting of the 7th, that you had openly advocated, does it not? Just stop there, just at that point. A.—Well you are as good a judge of that as I am.

Q.—I am not in the witness box, and I want it upon the record. You know what it was you wanted, and you have told us. Does that not completely reproduce the result or subject of your advocacy at the meeting of the 7th? A.—The substance but not the details. Since you have asked me that question I have read on, and I see——

Q.—I was begging your attention to the terms of the resolution down to that point, and I want you to tell me what there is left out of that that you openly advocated at the meeting of the 7th? A.—I cannot say what there is left out of it.

Q.—You cannot say there is anything, can you, that you openly advocated at the meeting of the 7th? A.—Of course these words there that you read down to there are contained in two lines of not more than about 15 words. Now there was very much more said than would be contained in that, in what I said.

Q.—Was there any part of the subject which you were openly advocating at the meeting of the 7th which is not completely covered by the terms of this resolution down to that point. If there is tell me what it was? A.—Well, I was not advocating the resolution at all.

Q.—I did not ask you that. You were advocating a particular policy, the policy of retaining matters as they were instead of taking a mortgage? A.—Yes.

Q.—Now does this resolution not completely cover that subject? A.—That they would take a mortgage?

Q.—That notwithstanding your advocacy they would have a mortgage, assume the position of mortgagees with reference to the advances? A.—No doubt that was resolved.

Q.—Is there any doubt that that covers and deals completely with everything you advocated at the meeting of

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the 7th? A.—I have no doubt that that was a negative of what I was advocating.

Q.—And of all that you were advocating openly? A.—Well it was intended to be a negative.

Q.—All that you were specifically—I will change the word “openly” to “specifically”—all that you were specifically advocating in the meeting of the 7th is completely negated by that resolution down to that point. Read it again and take your time? A.—If you stop there there would be nothing said about giving up stock.

Q.—What stock? A.—The whole stock. There would be nothing said about giving up any stock.

Q.—Assuming the position of mortgagee—does that not involve giving up the stock taken for advances? A.—Certainly it does, but there would be nothing said in that.

Q.—I ask you whether that is not completely covered. I ask you that once more. If you won't give me any different answer I will not waste time. A.—I do not think it is covered.

Q.—Why? A.—There it says nothing about giving up the stock.

Q.—What stock? A.—Any stock.

Q.—And you had advocated specifically at the meeting of the 7th giving up the stock for advances? A.—Do not say that. I was not there as an advocate. I pointed out——

Q.—Well, I will change that. You were opposing the proposition to turn the advance into a mortgage? A.—I was stating my reasons there why I thought it would be better to take the transaction as it was.

Q.—Then the resolution proceeds, and it becomes beautifully specific. There is no doubt about that, “Instead of the stock received by the company and its President upon formation of the Land Company, and the stock received as representing payments and advances, and the company and its President releasing to its original owners the stock.” (Reads). That is hedged around with a good deal of particularity is it not. Once more Mr. Wilson can you suggest any reason why except under the direst compulsion that Board of Directors should at that meeting have given away 337½ shares, the property of the company? A.—I did not understand they were giving it away. I understood they were changing it for a mortgage.

Q.—They got no mortgage for that amount? A.—They got a mortgage

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for the whole of their advances with interest from the time each respective advance was made.

Q.—You held a meeting of the Trust Company, the minutes say on the 28th. Do you remember that meeting? A.—I cannot remember the dates, but my recollection is that that same note book has a note of that. This is the note, November 28th. This is an appointment, Union Trust Company meeting, and a Great West meeting, and in addition to that I think that there is a notice. I have an envelope I think with a notice for some date, and I am not sure with reference to the date. This is for the 11th December.

Q.—That won't help us? A.—No, that won't help you.

Q.—Let me see. There is another notice of a meeting. These are registered notices of shareholders meetings. They are both for the 11th December so they do not help you.

Q.—They won't assist us. Well there is the same hiatus in the attendance book for that meeting? A.—Yes.

Q.—Do you remember that meeting? A.—I cannot remember it as a meeting of date, but I can remember that there was a shareholders' meeting as well as a Directors' meeting when the agreement was read. Now when those were I cannot remember.

Q.—Who prepared the agreement? A.—I did.

Q.—You prepared the agreement? A.—Yes.

Q.—On the instructions of what body, the Land Company or the other? A.—The Trust Company.

Q.—Then you brought it to the meeting I suppose? A.—I had it at the meeting.

Q.—Was that what you would call an informal meeting or a formal meeting? A.—Oh, I would call all those formal meetings. They were all meetings of which notice was given as far as I can recollect, and I have no doubt from my book.

Q.—We can find no trace of the meetings from the book, and Foster does not think he would give any notice of the meeting of the 13th, because it was an adjourned meeting. A.—I would think a notice was given from my book. I did find trace of the notice of the one meeting which I mentioned to you.

Q.—Then when you brought the agreement there which you had prepared, what did you do? A.—We discussed it and discussed it at length.

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Q.—What was said about it? Did anybody at that meeting say anything about this compensation stock? Was that subject mentioned at this meeting? A.—No doubt in the world the subject was mentioned, but I cannot recollect definitely what was mentioned. I do recollect some remarks that were made about the agreement.

Q.—What do you remember was said about the agreement? A.—I remember Mr. McGillivray thinking—I am not going to use the expression, it was a very strong agreement, and very severe upon the Great West Land Company.

Q.—They did not get the compensation stock? A.—No, it was not upon the ground of compensation stock, but it was on the ground of making, if I remember rightly—I am speaking only from recollection now—making time the essence of the contract, and giving extraordinary powers to the Union Trust Company if any default took place.

Q.—The solicitor of the Union Trust Company was very diligent in making the agreement drastic enough in these respects? A.—Well, Mr. Shepley, I think that those on the Board with me will give me credit for this, that I always tried to draw those agreements severely against my own interests, if I was interested.

Q.—Let us just view these three meetings as a whole, and the consideration of this whole subject as a whole? A.—Which three meetings?

Q.—The 7th, the 13th and the 28th November at which this transaction was put through? A.—Yes.

Q.—Supposing Mr. Matthew Wilson, being solicitor of the Union Trust Company and shareholder of the Union Trust Company and Director of the Union Trust Company, had no interest of any kind in the Great West Land Company, what would he have said at any of these meetings if it had been suggested either that this compensation stock should be given up, or that the Union Trust Company could not control and ought not to control in its own interest the actions of the Great West Land Company? A.—I would have said undoubtedly that in the first place the Union Trust Company ought not to take a mortgage, but ought to maintain its then present position, but if it did take a mortgage then it ought to give up what it had received.

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Q.—You would have said that as a trustee of the Union Trust Company?

A.—If it did take a mortgage I would have been opposed to making any change whatever. I would have said, "Keep the transaction as it was before that change took place, and I think that Mr. Stevenson would have said the same thing.

Q.—Do not speak for him, he can speak for himself? A.—Well, I know what he told me himself.

Q.—You would not have attached the slightest importance to the fact that under the original contract the Union Trust Company was entitled to keep that whole block of stock as compensation, no matter whether it took a mortgage or took stock, that would not have made the slightest difference in your conduct as Director of the Union Trust Company? A.—That had been decided a year prior to that, that they would take the stock, and that put an end to my—

Q.—What was inherently wrong in their saying "We want now to revert to the position of mortgagees and still keep the compensation because we have financed the transaction?" A.—I think either you or any lawyer—

Q.—Leave me out of it? A.—I think any lawyer would have advised that they had no right to take that stand.

Q.—That they could not compel, unless they could compel it by force of using their voting power? A.—Yes.

Q.—But if they did enter into the transaction I ask you what is wrong in saying, "We want the compensation." A.—If all parties agreed to any transaction then I do not think it would be wrong.

Q.—Do you think in the face of what Mr. Stevenson has said, of what Col. Davidson has said and of what Mr. Ross has said, do you think that these Directors appreciated what they were about? A.—I would believe what Mr. Stevenson said without the slightest hesitation, and if Mr. Stevenson said, "I did not believe it, I did not understand it" I would believe what Mr. Stevenson said he believed to be absolutely true. I would not question that for one instant. Let me show my action upon that. When Mr. Stevenson said he did not understand that, I said, "Mr. Stevenson, if you did not understand that, or if you think that you did not understand that I will leave it to you to say just what should be done in the light of what has taken place since.

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Q.—And who were you speaking for when you said that? A.—I was speaking for myself.

Q.—And not for Mr. Foster and not for Mr. McGillivray? A.—Of course I could not speak for those gentlemen.

Q.—Is that your attitude now, that you are willing to give up the stock? A.—I am willing to leave it to-day to Mr. Stevenson.

Q.—Are you willing to give up the stock if he says it should be done? A.—Whatever Mr. Stevenson says I am willing to do in the light of course of what has transpired. I would say the same not only as to Stevenson, but as to almost any of my co-Directors.

Q.—Just one other subject, and I think we can be very brief about that. Did you take any part in the deliberations of the Union Trust Company in respect of the Kamloops Lumber Company transaction? A.—Oh, practically none. That was eliminated from my control by putting in the Kamloops Lumber Company Directors, upon which Board I was not.

Q.—How was it you were not on that Board? A.—Well I do not know that I wanted to be on it.

Q.—Do you remember whether you wanted to or not? A.—No. I do not. You see I was not on any of their outside Boards. I had all I could do to look after the Union Trust Company Board.

Q.—Do you remember as a matter of memory now whether you wanted to go upon the Kamloops Board? A.—No sir, I do not remember, but I am satisfied I never wanted to go on any Board, and I would never go on any Board without being invited.

Q.—But you do not recollect how that was? A.—No, I do not.

Q.—You were instructed by the Union Trust Company to bring about a sale of the whole or a majority of its stock? A.—Yes.

Q.—And that was when? A.—Not long ago; just a short time. I forget how long ago it is.

Q.—And with whom did you negotiate? A.—With different parties. I negotiated with Mr. E. R. Wood.

Q.—And then finally you did bring about a transaction? A.—Yes.

Q.—The transaction we have upon the record here between the Union Trust Company and Mr. DuVernet and his associates? A.—Yes.

Q.—Who were Mr. DuVernet and his associates? A.—Mr. DuVernet is a

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lawyer in the city, and his associates are English people, but you do not ask me to mention their names—all relatives of Mr. DuVernet's wife, and the family members of whom I know, and with one member of which I as a youngster lived.

Q.—That is whom Mr. DuVernet represents? A.—Yes.

Q.—Who else were in the buying syndicate? A.—I should not say Mr. DuVernet exactly represents them, but Mr. DuVernet is one of them—and a foundryman—

Q.—Mr. Gurney? A.—Mr. Gurney and Mr. Magee.

Q.—President of the Bank? A.—Yes.

Q.—What Bank? A.—Crown Bank.

Q.—And Mr. Gurney a Director there? A.—I think Mr. Gurney is the Vice-President of it, but I am not sure, and Mr. O'Grady.

Q.—Who is he? A.—He is the Manager of the Crown Bank, and myself. I think we were all parties who were interested in it.

Q.—Yourself? A.—Yes.

Q.—What is your interest in it? A.—Well I will tell you that now if you think you ought to know.

Q.—Yes? A.—My interest is one-half of \$500,000.

Q.—In what shape? Who holds that interest? A.—Mr. DuVernet I suppose. I have never seen any papers regarding it.

Q.—You have not any written document regarding it? A.—No.

Q.—But your understanding with Mr. DuVernet is that you are with him in the purchase to the extent of \$250,000? A.—Yes.

Q.—Was that interest disclosed to the Union Trust Company? A.—To Mr. Stevenson, yes.

Q.—When was that? A.—Before I agreed to go into it I told Mr. Stevenson the circumstance connected with it.

Q.—That you were one of the purchasers? A.—Yes.

Q.—You told him that you were one of the purchasers? A.—No, do not put it that way. It just shows the necessity of explaining. What I told Mr. Stevenson was this, that I was invited to become one, and I told him the circumstances under which I was asked to become one, and asked Mr. Stevenson if first he saw any objection to it, and next would he think it an advisable investment for me to make.

Q.—Why did you tell Stevenson? Because you felt under an obligation

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to disclose to somebody? A.—Because I would not want to go into a transaction of that kind without Mr. Stevenson having the fullest knowledge of it.

Q.—Why Stevenson? A.—Because he was the one who was acting for the I.O.F. at the time of the sale and because he was a very active member on the Union Trust Company Board, and because he was a member whose judgment I have great confidence in.

Q.—You have great confidence in his judgment as to the wisdom of such an investment? A.—Yes, and quite apart from the wisdom of the investment, I would not want him not to be told of it.

Q.—You did not report it to the Foresters generally. You spoke to Mr. Stevenson about it. What did he say? A.—Mr. Stevenson said, so far as I recollect, about these words, "I not only see no objection to your going into it, but I will be very pleased if you do become interested in it." And then we discussed it from a financial point of view, as to what the stock was really worth. Of course I had the opinion that it was very valuable stock, and I still have the same opinion.

Q.—May I enquire whether you have put up any share of the money that has been paid on his purchase. A.—No, I have not.

Q.—That has been financed by the Crown Bank? A.—I do not know the first thing about how that was financed.

Q.—What else did you get out of that transaction? A.—When that matter was put before Mr. DuVernet with the idea of having his English friends interested in it Mr. DuVernet said that he would not consider that unless I would take the management, that he would not have time himself, he was too busy a man to look after the management of the company, and that he would like to be able to tell his English friends that I was taking the management of it. I told him that that was impossible, and he suggested that if I would take the management that they would give me \$10,000 a year, even though I did not devote the whole of my time. I said I could not do that without leaving Chatham, and I was unwilling to leave Chatham as a home. Then that was in our first discussion. And I think **we separated, and he said for me to think it over.** Afterwards he asked me if I would be willing to become

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either President or Vice-President of it, and receive such a remuneration as would be fair for me to give up such time as would enable me to keep a general supervision over a Manager that might be selected, and I did not at first agree to that, but finally I told him that on the proposition which he made then of giving me \$5,000 a year, that I would do that, and in the end he said he would supplement that with \$2,500 out of his own pocket, and that proposition—that is the becoming President or Vice-President and receiving remuneration at the rate of \$5,000 a year—I then spoke to Mr. Stevenson about it. I did not at that time tell Mr. Stevenson what Mr. DuVernet was going to give me himself, because that I thought was a matter between him and me, and not Mr. Stevenson, and I asked Mr. Stevenson what he thought of it, and he said that would be perfectly satisfactory to him. Now you have got the whole of it I believe.

Q.—Did you get anything in money?
A.—Yes, \$2,500.

Q.—Did you get any more money?
A.—No.

Q.—You did not get \$5,000 in cash from Mr. O'Grady? A.—No.

Q.—Nor through the Crown Bank?
A.—No. There was a \$5,000 cheque which was given to me to endorse, but the particulars of that I know nothing of. I endorsed it.

Q.—Tell me all you do know about that? A.—I do not know the first thing about it beyond the fact that it was in some way part of the transaction whereby DuVernet was getting Mr. O'Grady, Mr. Gurney and Mr. Magee interested.

Q.—Whose cheque was it? A.—I do not recollect, but I have no doubt it was the cheque that you speak of.

Q.—Whose cheque? A.—That I cannot recollect.

Q.—Do you endorse everything that is put before you without remembering anything about it? It was only in June, you know? A.—It would make no difference to me whether that would be O'Grady's cheque, Gurney's cheque, or Magee's cheque.

Q.—You do not remember as a matter of fact whose it was? A.—No.

Q.—Was it payable to your order?
A.—I believe it was.

Q.—Payable to your order? A.—I believe it was.

Q.—Who asked you to endorse it?
A.—Mr. DuVernet.

Q.—You endorsed it and left it with him, did you? A.—Yes.

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Q.—Did he tell you what he was going to do with it? A.—No, he did not.

Q.—Did you inquire? A.—No.

Q.—Why not? A.—Because it was none of my business.

Q.—You made it your business, sir, by endorsing the cheque? A.—No, I do not think I did. I do not know today, and I have not the least idea of the terms upon which Mr. O'Grady, Mr. Gurney and Mr. Magee have come into the company.

Q.—And you made no inquiry? A.—No.

Q.—And you know nothing about it? A.—No, I know nothing about it.

Q.—And you are Mr. Matthew Wilson, the solicitor of the Trust Company, Director of the Trust Company, and the accredited ambassador of the Foresters in this particular transaction? A.—I am not solicitor for the Trust Company, but at the same time I am Mr. Matthew Wilson.

Q.—And you were the accredited ambassador in this very transaction of the Foresters? A.—Yes.

Q.—And you were asked to endorse a cheque made payable to your order being told nothing about what the destination of it was? A.—Yes, and I do not know what the destination of it was.

Q.—Did you disclose that to anybody? A.—No, I do not think I did.

Q.—Is that all you got? A.—Yes, that is all I got.

Q.—Have you got a promise of any stock in the Union Trust Company?
A.—No sir.

Q.—\$20,000 worth of stock? A.—Oh, well now, that is a separate matter altogether.

Q.—Well, I do not want you to forget about it? A.—I will not forget about it, but that has no relation to the other except in this way; Mr. DuVernet and I discussed the question of whether we should sell our \$500,000 of stock or not, and I was in favor of selling, letting the English people take it. Mr. DuVernet was in favor rather of holding it, and I told him that if he could sell that that I would be willing to take as my profit on the \$250,000—I do not think it was \$20,000; I think it was \$25,000. Probably now that is the story that you heard.

Q.—Well, I do not know. That may be another story, but that does not dispose of the story that I heard. Did you get a specific sum of \$5,000 and a promise of a further block of stock to the extent of \$20,000 as a commission

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or remuneration from the other side of the transaction than that in which you were engaged? A.—No sir, I do not think that there was any such suggestion at all. I am telling you just my recollection of it which I told to Mr. Stevenson at the time.

Q.—You did not tell him about that \$25,000 of stock? A.—That was not a thing in existence until subsequently. That did not come into existence at all.

Q.—You did not tell him about the \$5,000 cheque? A.—No.

Q.—Nor the \$2,500 from Mr. DuVernet? A.—No.

Q.—I suppose Mr. DuVernet knows all about that cheque? A.—Well, I do not know.

Q.—You do not know to whom we could direct our inquiries with a view to finding out about that? A.—You could direct your inquiries I should think to the parties from whom you got that information.

Q.—That information I did not get from anybody until I got it from you in the witness box. You had never told anybody about that before? A.—Yes, I did.

Q.—Have you the details of this transaction down in a little diary anywhere? A.—No sir, I have not.

Q.—Why did you keep that out of your diary? A.—I did not keep it out of my diary.

Q.—Well you did not put it in? A.—No. You might as well ask why did I keep it out of something else.

Q.—You did not put it in while you do put in entries about most of your business apparently? A.—No sir, pardon me.

Q.—There is no entry you have made anywhere of this at all? A.—No.

Q.—No entry you can refresh your recollection with? A.—No.

Q.—Do you know any connection between the \$5,000 cheque and the \$2,500 which you got from Mr. DuVernet? A.—I do not.

Q.—Do you suspect any? A.—No, it has never occurred to my mind, except in this way; I supposed the \$5,000 cheque had something to do with the way in which Mr. DuVernet got Mr. Gurney, Mr. O'Grady and Mr. Magee interested. How it was I do not know. He never told me.

Q.—He never told you? A.—No.

Q.—He did not tell you for instance that the \$2,500 which he gave you out of his own pocket was half of this cheque? A.—No, he did not.

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Q.—Do you suspect it to be so? A.—I have no right to suspect it to be so.

Q.—Do you believe it to be so? A.—I have no right to believe—

Q.—Was that your understanding? A.—No, Mr. DuVernet said that \$2,500 was coming out of his own pocket.

Q.—At all events you got \$2,500? A.—Yes.

Q.—Did you get it before or after you had endorsed this cheque? A.—My recollection is—now I am not saying that with certainty—my recollection is that I got it afterwards.

Q.—The same day? A.—No.

Q.—On the same occasion, at the same meeting? A.—No. I am speaking now from recollection. My recollection is that I got it after it was settled that I was to take a general oversight of the work, not giving my time as manager at all, and to receive a remuneration at the rate of \$5,000 per year.

Q.—That does not identify it at all in my mind with what I want to identify it, if it is so; that is the endorsement of the \$5,000 cheque? A.—I cannot tell you.

Q.—Will you swear it was not at the same time you got the cheque? A.—No, I will not swear.

Q.—Don't you think it was part of the same thing, your endorsing the cheque with one hand, and getting the \$2,500 with the other? A.—If you ask me what I think I would say I rather think not.

Q.—You would rather think not? A.—Yes.

Q.—But you were keeping your eyes closed to what that \$5,000 meant? A.—Pardon me.

Q.—You were not asking? A.—No.

Q.—You were lending yourself to what was being done, whether it was right or wrong? A.—I have no doubt it was right.

Q.—Why was it made payable to you if it was right? A.—I do not know.

Q.—You do not suggest, or rather your evidence is the other way, that the \$5,000 to you was not a real thing, did not represent a reality between the man giving the cheque and you? A.—Not to me, certainly.

Q.—In your experience why do people put transactions through so that they embody no realities? A.—Nobody could answer such a question as that.

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Q.—I do not know but I should rather think that you could; at all events you cannot answer it? A.—I wish I could.

Q.—Is it a common thing for you to endorse a cheque which you know nothing about, and which you have no interest in, and which is made out to your order? A.—You are putting it as if there was no reason for it. I had no doubt I was endorsing that cheque in connection with that transaction which was in Mr. DuVernet's hands.

Q.—And with which you had nothing to do? A.—Of course I had to do with it because I was becoming interested in the stock, and very heavily interested, and I had no doubt in the world but what Mr. DuVernet did was right, I have that confidence in Mr. DuVernet that I would unhesitatingly do it.

Q.—Unhesitatingly put your name on the back of a cheque payable to your order that you knew nothing absolutely about, and as to the destination of which you knew nothing? A.—As to the destination of which I knew nothing.

Q.—Have you entirely purged your conscience, Mr. Wilson, with respect to writings between yourself and Mr. DuVernet or between yourself and anybody else in this transaction? A.—I have no writing at all.

Q.—Any letters? A.—No letters.

Q.—Did letters pass between you? A.—No.

Q.—You never wrote a letter? A.—I do not think I wrote a single letter.

Q.—He never wrote a letter to you? A.—He does not write letters.

Q.—He never wrote a letter to you in this transaction? A.—No.

Q.—Nor anybody else? A.—No.

Q.—Nor you to anybody else? A.—Nor me to anybody else.

Q.—No agreement in writing between you? A.—No.

Q.—No entry made by you of anything? A.—No entry made by me of anything.

Q.—That is not in accordance with your usual habits in business? A.—According to what you saw this morning I thought you would find it was.

Q.—You appear to be rather methodical and careful? A.—I think I am, but as you saw this morning you were surprised when I had no entries with

regard to the transfer of stock on a former occasion from the Provincial Trust Company to the representatives of the I. O. F.

Q.—You had little books full of—
A.—But I had no entry in any ledger or docket, or anything about it. You were surprised about it. As I told you then, I do not make a habit of making the charges in that way until the thing was completed, and in the same way I would not enter up anything here.

Q.—Now that you have told me so little about things you do not know about, I should like you to tell me a little more about things you do know about. Who were interested with you and Mr. DuVernet in this purchase? A.—No person except the persons whom I have referred to.

Q.—Mr. DuVernet represented some English capital? A.—Yes.

Q.—Who are the English capitalists? A.—Well I have no objection to giving you those, but I do not think they ought to be given to the public.

Q.—Why not? What objection can there be to the public knowing who are the stockholders in the Union Trust Company? A.—Well the parties themselves might not want their names known.

Q.—I think we cannot respect their delicacy. A.—If the Commission think I should give them I will do so.

Q.—It seems to me that is a relevant inquiry. The Foresters still hold a million of this stock, indeed they hold it all except \$500,000 of it.

JUDGE MAC TAVISH: I think you must answer the question.

A.—Sir William Marling and his family.

MR. SHEPLEY: Q.—Is that all? A.—And I believe also Mr. Chitty.

Q.—Is that all? A.—I believe so.

Q.—Is the arrangement that you have with Mr. DuVernet that you shall unload this half million of stock upon these two parties in such a way that you will turn it over at a profit to yourself? A.—No sir.

Q.—You were agreeing to take \$25,000 for your share of the profits? A.—Of course I would not call it unloading. In the first place I think the stock is a very valuable stock.

Q.—That these people should get it on shares by which you should make for your share \$25,000? A.—Well, I would not sell it for less. I would not

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sell \$250,000 of that stock procured at 110 at less than \$25,000 of a profit.

Q.—You secured that from the very man that was looking to bring in the capital of his friends, you secured that position, the position of being able to demand \$25,000? A.—I do not understand what you mean by that.

Q.—You secured from Mr. DuVernet the right to half the \$500,000 of stock without a scratch in writing it is true, but still you are entitled to it? A.—I cannot say that I secured it to him.

Q.—From him—from him I said. A.—Because that is the original understanding.

Q.—From him I said. A.—How would I secure it from him any more than he from me?

Q.—Was he ready to pay that \$500,000 of stock? A.—No sir. That is as I understand. Of course he can pay for it.

Q.—He cannot finance the whole \$500,000, but only half of it? A.—Oh dear no, don't misunderstand me. Mr. DuVernet I think offered to pay for that stock long ago for his friends in England, and I understand it was not because he was straitened.

Q.—He was occupying the position of purchaser, and you were agent for the vendor; he was agent for the purchaser and you were agent for the vendor, and you and he are sharing the profit on turning over the property, you for the vendee and he for the vendor; that is the plain English? A.—No, it is not.

Q.—What is it? A.—I got this stock, as the President or Mr. Stevenson would tell you, with instructions to get 110 from them. The best way for me to get 110 was to go to a man and say "Here that stock is worth more than 110. I will show you on a 5 per cent. basis that it is worth very much more than 110. I will show you by my own action that it is worth more because I will go in with you and take part in that stock." That is the way I induced them to come into the company, in the first place to show by my action that I believed it was a good undertaking, and I did that as I said after laying the matter before Mr. Stevenson.

Q.—And it has not struck you up to the present time that you, the agent of the vendor, and Mr. DuVernet the agent of the vendee, upon the story you have told us, were transferring the subject matter of the sale to the ven-

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dee principal at a profit to each of you? A.—Why would not we have a right to do it if we did it with the knowledge of everybody?

Q.—I cannot argue with a man who says why have not we a right to do a thing like that. There is no writing between you at all events? A.—No.

Q.—Are the million and a half dollars worth of stock that this syndicate has purchased, as we have been told, to be distributed, some in England and some here? A.—I believe so.

Q.—And the English distribution—is that of the \$500,000 you have been telling us about? A.—I think of more.

Q.—Well, do you know? A.—No.

Q.—Certainly of that? A.—Certainly of that.

Q.—Certainly of the \$500,000 you were speaking about? A.—Yes.

Q.—And you think of more, but you do not know certainly? A.—No.

Q.—You know where the rest is to be distributed that does not go to England—what the intention is? A.—No.

Q.—Is it to be put upon the market? A.—No sir, not that I know of. I do not think so.

Q.—Who do you understand holds that or is to hold it? A.—Well that as I say I do not know. Mr. Magee, Mr. O'Grady and Mr. Gurney—

Q.—They are handling that? A.—That is as I understand.

Q.—I think I quite understand your position. You bought or took an interest in the \$250,000 of stock with that intention and purpose of selling it at the profit you speak of, the \$25,000? A.—No, I took it with the intention of holding it.

Q.—And you are transferring it and getting out upon getting \$25,000? A.—No.

Q.—You are intending to? A.—No.

Q.—You agreed to? A.—I agreed to, but that has not been carried out.

Q.—What is delaying it? A.—I do not think it will be carried out.

Q.—Why? A.—I merely told you I offered to do that. I prefer to hold it.

Q.—That is what you have offered to do? A.—Yes.

Q.—Did Mr. DuVernet agree to that? A.—No sir.

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Q.—He has not agreed to that? A.—No.

Q.—Is your \$250,000 intended to be taken up by the people in England? A.—Well, if Mr. DuVernet sees fit to sell it to them he is at perfect liberty to do so.

Q.—Is that his intention? Is that part of the stock that is to be distributed in England? A.—Well, that is if it is carried out.

Q.—And the intention is to carry it out so far as you are aware? A.—I am not sure about that.

Q.—Unless something happens to the company? A.—That will not be carried out unless I get a profit upon it. For instance I would not consent to Mr. DuVernet distributing that in England without giving me the profit.

Q.—And he is willing to give you that profit? A.—No he has not said that at all.

Q.—He has not said so? A.—No.

Q.—What has he said about it? A.—He has not accepted my proposition.

Q.—He is remaining silent about it? A.—Yes.

Q.—To what extent are his English friends now committed by him to the purchase of stock? A.—I do not know. Of course I understand, possibly without reason, that Mr. DuVernet controls very much more than that.

Q.—Just one other matter. I have a reference now to the minute in the Kamloops matter, I had in mind. The date of that seems to be 19th December, 1903, minutes of the Union Trust Company Directors in connection with the purchase and working of certain timber berths in British Columbia as described in a memorandum of agreement between Ryan and Fowler giving an option, and so on. The Trust Company will advance the money required to purchase the property and take a controlling interest therein? A Special committee consisting of Matthew Wilson, Col. Davidson, and another gentleman were appointed to arrange details of the matter. You seem to have been on the committee to arrange details? A.—Yes.

Q.—Did you take part in what they did? A.—Yes.

Q.—You were aware of the transaction as it then went through? A.—No doubt. There was one meeting I was not at.

Q.—Did you have any knowledge of the existence of that \$55,000 fund? A.—Not the slightest.

Q.—Carved out of your Trust Company's \$225,000? A.—I never heard of that until Mr. Stevenson consulted me about it after getting word from British Columbia.

Q.—Does it so happen that any cheques that were given by Fowler about that time were given to Matthew Wilson? A.—No, it does not. It does not so far as I know. I never received a cheque from Fowler in my life.

Q.—You never endorsed a cheque without knowing whose it was? A.—I never endorsed a cheque by Fowler so far as I know.

Q.—You might have endorsed his cheque without knowing it? A.—I do not think I would. I do not think I endorsed anybody's cheque without knowing whose it was.

Q.—You did in one case? A.—No, I did not.

Q.—Whose cheque was that \$5,000? A.—I said while I knew at the time whose cheque it was, I said no doubt it was a cheque of or connected with some of those three parties.

Q.—You may have endorsed a cheque of Fowler's A.—No, I did not.

Q.—And have known it at the time and have forgotten whose cheque it was now? A.—No. Let me tell you this directly or indirectly through myself or anybody else I have never had the slightest interest with Mr. Fowler in any of his transactions beyond the purchase from him of the Great West Lands.

Q.—You will get those distribution cheques and send them to us at the earliest possible moment and address them to the Secretary of the Commission please? A.—Yes.

Q.—I understand now you want to make an explanation. A.—For fear you have the impression that Mr. DuVernet was making a profit out of his English friends I want to say that I did not intend to say and I do not think I did say anything to that effect, that I was speaking merely of my own interest.

Q.—The language you used I think was this; that you were prepared to accept \$25,000 as your share of the profits? A.—Well I did not intend that. I meant the share of my profit, and I thought that was what I said.

(Commission adjourned at 5 o'clock on Thursday, October 11th, till 10 a.m. Friday October 12th.)

SESSIONAL PAPER No. 66

EIGHTY-FIFTH DAY.

MORNING SESSION.

Toronto, Friday, October 12th, 1906.

ERNEST E. A. DuVERNET,
sworn. Examined by

MR. SHEPLEY: Q.—You were concerned in the purchase of \$1,500,000 par value of the stock of the Union Trust Company recently? A.—I was.

Q.—Whom did you represent in the transaction? A.—I represented myself.

Q.—Anyone else? A.—There were certain parties who were interested about that time, became interested, but as to one million dollars of the stock I represented myself.

Q.—What capital was behind you in the interest that you represented? A.—Well it would perhaps be shorter, as the matter has been brought up—of course it is entirely a private matter, but I had better clear it up—perhaps I had better tell you just what occurred.

Q.—Yes, if you please? A.—I was called upon by Mr. Matthew Wilson who told me that he either had or was in a position to get an option for 15,000 shares of the Union Trust Company. He asked me if I thought I could get my English friends to associate themselves in the purchase. Well I asked him how long his option would be good for. He said about ten days. I expressed myself that that would be far too short a time to do anything, but I asked him if he had anything in writing, and he said no. I said, "If you come back with something in writing I will talk to you." Subsequently he did come back, and I had considered the matter and made up my mind that it would be a good investment, as my idea was to turn the stock over at the price which I would pay for it to solicitors, of whom I acted for a great many in this country, and who would take an interest, and elect their own body, and also to some of my English friends. However, of course it was necessary—there was half a million dollars to be paid—it was necessary of course that that should be arranged for.

Q.—If you will let me interrupt you for a moment, did he bring back a written option on the second occasion? A.—Certainly, certainly.

Q.—Is that among your papers?

A.—No, Mr. Shepley, all those papers would be handed to the bank.

Q.—Whatever papers there are will be found in the bank, such as you

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have yourself? A.—Such as I have myself; and I took the matter up. The parties names have been mentioned. Mr. E. R. Wood was one. We also went so far as to send the agreement to Mr. Thomson, Mr. Tilley's partner, to revise. But Mr. Wood was taken ill and the matter was dropped. It then became necessary to make arrangements elsewhere, and I arranged with the bank to pay the necessary money, and I took the option up. The option was assigned to me and I simply took it up. I may say that Mr. Wilson knew nothing about my attitude in the matter. He was extremely surprised when he found that I had taken it up.

Q.—You took the option up? What exactly did you do? A.—I wrote a letter. I had before me an assignment of an option to Mr. Wilson. Mr. Wilson was the man whom I was dealing with. I did not understand anything about the Foresters or the Union Trust Company. I had no dealings or connection with them whatsoever. Mr. Wilson had an option which he was willing to sell, and I arranged with Mr. Wilson to buy that option, and I agreed to give him what he wanted for it.

Q.—That was 110? A.—That was 110 plus what he was to get.

Q.—Plus what he was to get? A.—Certainly. He was not selling an option for nothing.

Q.—Will you tell me please what the plus was? A.—The plus was, according to my recollection, I do not think anything was written in regard to that; I was to pay Mr. Wilson \$5,000 cash, and Mr. Wilson was to have 200 shares of the Union Trust Company. That was the addition, that was the profit, but what, as I understood, was his option as to what was between Mr. Wilson and the Foresters, as to whether that was going to them, I knew nothing about that whatsoever, nor it was none of my business.

Q.—Then the arrangement that Mr. Wilson made with you contained a stipulation that he should get in addition to what his principal wanted, or at least of what his option was—A.—I knew of no principal.

Q.—I amend that. In addition to the figures called for by the option which he was carrying, the \$20,000 in stock and the \$5,000 in cash? A.—Certainly that is my recollection. As to whether that was going to him or his people I know not.

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Q.—And the result of that transaction was to be that the whole of the million and a half of stock would be vested in whom? A.—In myself.

Q.—You taking up the option? A.—I taking up the option.

Q.—What was the next step in the matter? A.—Well, the next step in the matter, I took the option and paid the \$500,000.

Q.—You do not alter in any way, do you, the statement we already have as to the method of payment? A.—That I do not care about. My agreement with the bank called for the payment, and they may suit their own convenience about that.

Q.—Was your agreement with the bank in writing? A.—Certainly.

Q.—Will the bank have that? A.—The bank has that.

Q.—You have not that? A.—I have copies. I can get them from England, from my people there, but the bank have all those things. I may have left the original in England and the bank may have a copy of that particular agreement.

Q.—No doubt the bank officers will produce everything to us? A.—I have receipts from the bank for all these documents.

Q.—You will, of course, as I expect you to do, give us full liberty to examine the documents in the bank? A.—Certainly, but I have this to say; you must recognize that except so far as Wilson is concerned and his commission, it is a matter that has nothing to do with the Foresters or the Union Trust Company. My dealings with my friends in the shares I purchased have nothing to do with this, but you are quite at liberty to see all the documents, and the Commission can see them, trusting to your sense of propriety not to spread my private affairs where it is nobody's business but my own.

Q.—How did Mr. Gurney and Mr. Magee become associated in the transaction? A.—Mr. Gurney and Mr. Magee arranged to have the money advanced, and for which they were to get a third interest, a third of the stock, and to assume a third of the liability.

Q.—And in that way the agreement when finally made came to embrace these gentlemen as well? A.—Yes, there were three other parties whom I bought out since; so we had better leave them out of the question.

Q.—They were associated at that time? A.—They were to get another

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third. Since then I have bought them out.

Q.—So that as matters now stand inter se, you are holding a million of stock and Messrs. Magee and Gurney half a million? A.—Exactly.

Q.—That is the position? A.—Yes. I think Mr. O'Grady represented them in the transaction.

Q.—There were originally others associated, but they have been eliminated by your purchase? A.—I have bought them and paid them cash.

Q.—I think I ought to ask you whether any person connected either with the Union Trust Company or Foresters to your knowledge was among those you specified? A.—Absolutely not. I do not even know, I have not had the honor of knowing the head Ranger of the Foresters, I have had no connection with the Foresters whatever or the Union Trust Company until I took up that option, of any description.

Q.—Did Mr. Wilson become otherwise interested than as you have told me? A.—What took place was this; I was to pay Mr. Wilson \$5,000 in cash. I drew my cheque for \$5,000 payable to Mr. Wilson. That cheque I will produce. At that time Mr. Wilson had absolutely no interest in the matter whatever except as I have described to you. He then wanted to get an option on half of the \$500,000, and I declined to give it to him. I said the responsibility was mine, and that I saw no reason for it. He then pressed me and finally suggested that he would leave \$2,500 in my hands as a forfeit if he did not take the option up in three months.

Q.—You did give him an option? A.—I gave him that option.

Q.—What was the option? A.—The option was that he was to have the right to take up \$250,000 of stock.

Q.—At what price? A.—At the exact figure which I paid for it.

Q.—Not at an advance but at the 110? A.—Except he was to bring everything he was getting in to the syndicate, to myself and the others.

Q.—How do you mean anything he was getting in? A.—That is he would have to bring back, he could not take the position of seller and purchaser—he would have to bring back what he was getting. He got \$2,500—

Q.—He really got \$5,000? A.—Yes, he would have to bring back

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half of his commission or whatever it was.

Q.—And to pay back the \$20,000 of stock? A.—Yes, to pay back half of that I think it was.

Q.—And you say that he was not to get a profit on taking up that option? A.—He was to get the stock at 110; that is what he was paying \$2,500 for.

Q.—Then it was intended the stock should be resold and resold at a profit? A.—Absolutely not. I declined to sell one dollar of that stock to anybody at a profit. My policy was to sell it only to people who would be a benefit to the company. Any profit I desired was to be taken out of the profits as a shareholder of the stock which I have paid, and the stock which has been sold at absolutely what I paid for it, I paying any commissions myself.

Q.—What Mr. Wilson told us yesterday was that you and he agreed that if he got this stock that he would hand it back again at a profit of \$25,000, which was to represent his profit in respect of it? A.—I cannot help what Mr. Wilson said. I am telling you the fact as I recollect it.

Q.—I have to call your attention to the statement he made. What do you say in regard to that? A.—Well, what may have been in his mind I do not know. All I know is this, that he had the right up to three months to take up \$250,000 of that stock; that he did not do and told me he was not going to do; so that ended Mr. Wilson's connection with the matter absolutely.

Q.—Was that option between you and him in writing? A.—My own impression was—I signed several things for Mr. Wilson and I think that was signed—that is my recollection, but I would not swear to that. That is my recollection of the thing.

Q.—Your recollection is that it was? A.—Yes, my recollection is that it was. but I may be in error. I signed two or three things in connection with this. That is my recollection though.

Q.—What induced you to part with the option to Mr. Wilson? A.—Mr. Wilson pressed me very hard. He suggested that it was a good thing, and that he should take an interest that he was a man of standing and means, and I may say at that time I was very much impressed with the

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benefit it would be to the company, to have a man like Mr. Wilson, who was an old practicing solicitor, and one of the leaders of the Bar, and one of the Benchers of the Law Society connected with it. Of course I did not intend to take an active part in the matter at all.

Q.—He says you were urgent that he should assume the position of Manager in the company? A.—Well I do not know. I had a Manager in view, and that was discussed with Mr. Stevenson. Mr. Wilson's name may have been mentioned. I would not say that in some of the conversations he had with me I might not have suggested that.

Q.—He says that you were very urgent with him, that you wanted him to become the Manager, to devote such time as was necessary, as he thought necessary to the business of the company, and that he was to have a salary of \$6,000 a year if he would accede to your blandishments? A.—Well, I have no recollection of holding out any inducements of that description. It may have been possible that I may have suggested as to whether or not he was in a position to take the Managership, and that sum may have been mentioned; I would not say it was not. All I know is that I recognize that Mr. Wilson from his own account has been one of the moving and leading spirits in the Trust Company. My policy was in the re-organization to take in a man of the very highest standing as the President; that is representing a new element, and to have a man who would know as to the past of the Trust Company, and who had no connection with the Foresters, because they had their own representatives, and I thought that between the two naturally a salaried manager should be appointed, and we were looking for the best man that the country could produce, and this man should be properly paid. We were intending to appoint a man at once.

Q.—Then he says that upon his absolutely refusing by reason of the necessity involved of changing his home, that he absolutely refused the position of manager at the salary of \$10,000 a year, that then you urged upon him taking the position of President or Vice-President and not devoting so much of his time as he would have to do to the affairs of the company at a salary of \$5,000, and you said that as a matter of in-

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ducement you would supplement that by \$2,500 out of your own pocket. What do you say as to that? A.—That is not my recollection. What took place was this; I was very anxious to retain Mr. Wilson's active services in connection with the Trust Company, because I thought he had everything at his—he had been with it since the commencement, and I had the most absolute confidence, as I say, in Mr. Wilson's standing, and in his ability and skill, and I was quite willing that he should be properly paid, if he would take the position of Vice-President. As a matter of fact when the by-law came before the shareholders I opposed it and the by-law was laid over, and that by-law has never been ratified by the shareholders, because owing to this investigation, or whatever it was, I did not think we were getting value for our money.

Q.—Let me be a little more specific with regard to Mr. Wilson's statement yesterday. At page 8,370 of the typewritten record? A.—I have not had the advantage of seeing Mr. Wilson's evidence.

Q.—He is asked:

"What is your interest in it? A.—My interest is one-half of \$500,000.

"Q.—In what shape? Who holds that interest? A.—Mr. DuVernet I suppose. I have never seen any papers regarding it.

"Q.—You have not any written document regarding it? A.—No.

"Q.—But your understanding with Mr. DuVernet is that you are with him in the purchase to the extent of \$250,000? A.—Yes."

Your statement this morning is that there was a written option you believe? A.—That was perfectly right up to the time when he intimated to me that he did not want to take up the option.

Q.—When was that intimated to you? A.—My recollection is I got a letter in England, and I think it was some time in August.

Q.—Have you that letter? A.—I think I might find the letter. I did not get any word till last night, and I am sure the letter is here or in England.

Q.—You will get it for us? A.—I will try and get it Mr. Shepley. In that letter he says he was prepared to forfeit the \$2,500. Those are the words he makes use of.

Q.—Then further on in his examination Mr. Wilson is asked—

"Q.—May I inquire whether you put up any share of the money that has

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been paid on this purchase? A.—No, I have not."

A.—That is absolutely correct. Mr. Wilson had nothing whatever to do with it.

Q.—The examination proceeds:—

"Q.—That has been financed by the Crown Bank? A.—I do not know the first thing about how that was financed.

"Q.—What else did you get out of that transaction? A.—When that matter was put before Mr. DuVernet with the idea of having his English friends interested in it Mr. DuVernet said that he would not consider that unless I would take the management, that he would not have time himself, he was too busy a man to look after the management of the company, and that he would like to be able to tell his English friends that I was taking the management of it. I told him that was impossible, and he suggested that if I would take the management that they would give me \$10,000 a year even though I did not devote the whole of my time. I said I could not do that without leaving Chatham, and I was unwilling to leave Chatham as a home. Then that was in our first discussion, and I think we separated, and he said for me to think it over. Afterwards he asked me if I would be willing to become either President or Vice-President of it and receive such a remuneration as would be fair for me to give up such time as would enable me to keep a general supervision over a Manager that might be selected, and I did not at first agree to that, but finally I told him that on the proposition which he made then of giving me \$5,000 a year I would do that, and in the end he said that he would supplement that with \$2,500 out of his own pocket, and that proposition, that is the becoming President or Vice-President and receiving remuneration at the rate of \$5,000 a year—I then spoke to Mr. Stevenson about it."

What do you say to that statement? A.—I think I have given you the facts. There was a great deal of loose talk, no doubt, especially when Wilson came in first, and I think I have stated the facts.

Q.—About that \$2,500 a year out of your own pocket? A.—Oh, absolutely that is a mistake—absolutely a mistake. What Mr. Wilson means, I presume is that that \$2,500 is what he was entitled to, and what he got.

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Q.—That is the \$2,500 he was stipulating for as part of a larger sum of \$5,000? A.—Yes, and I may say that having regard to what had taken place, and Mr. Wilson's not being able to take it up, I intimated to him that if he could give me a release in regard to the other we would be only too glad to hand over the other \$2,500 to him.

Q.—Is that in writing? A.—No, that is not in writing.

Q.—That is in conversation between you recently? A.—Yes. Well, since he came back I discussed the matter with Mr. O'Grady.

Q.—That is since he came back this last— A.—Well since September the question what should be done with that \$2,500 was discussed, whether it should go to the benefit of those interested or go back to Wilson.

Q.—Since he came back from the trip to the West? A.—No, since I came back and found he was not going to take it.

Q.—And the date you got back was when? A.—I got back 10th September or about then.

Q.—May I ask you whether or not the \$2,500 was left with you when the \$5,000 cash was paid? A.—What happened was this; I drew my own cheque for \$5,000 on the Crown Bank. I have sent for it.

MR. RAYMOND: Mr. O'Grady left town this morning and will not return till Monday morning, and his clerks have not access to his papers.

WITNESS: I drew a cheque of my own for \$5,000.

MR. SHEPLEY: Q.—Is that here? A.—I have sent for it. It was a cheque on my own account for \$5,000 payable to Mr. Wilson when the matter was being closed with Wilson. He then demanded this option which I declined to give him, and the result was that he agreed to pay \$2,500 or deposit it, the way he expressed it was that he was to forfeit it, which I think were the words, so that he asked me to give him a cheque for \$2,500. I gave him my own firm cheque. Our bank was in the building. I produce that. That is the cheque, and the other cheque he endorsed back to me.

Q.—I do not know that I quite understand that. He endorsed over your own cheque to you? A.—I had the cheque for \$5,000.

Q.—Payable to him? A.—Payable to Wilson.

Q.—That he endorsed over and you got? A.—Yes.

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Q.—And you gave him back your firm cheque for \$2,500? A.—Yes.

Q.—Which is here? A.—Yes.

Q.—And with your permission we will have this marked please? A.—Certainly.

Q.—The result being he left \$2,500 to you which was to be forfeited if he did not take up the option? A.—And that Mr. O'Grady who had the other interest was informed of, and although it was on my shares, I told him if he forfeited one-third would go to them, one-third was coming out of my pocket in any case.

Q.—I will read you Mr. Wilson's account of the \$5,000 cheque.

Q.—He was asked:

"Q.—You did not get \$5,000 in cash from Mr. O'Grady? A.—No.

"Q.—Nor through the Crown Bank? A.—No. There was a \$5,000 cheque which was given to me to endorse, but the particulars of that I know nothing of. I endorsed it.

"Q.—Tell me all you do know about it? A.—I do not know the first thing about it beyond the fact that, it was in some way part of the transaction whereby Mr. DuVernet was getting Mr. O'Grady, Mr. Gurney and Mr. Magee interested."

A.—Mr. Wilson was not taken into my confidence in any way.

Q.—About the \$5,000 cheque? A.—It was to be his payment. He was selling his option, as I have explained to Mr. Shepley, as I assume he had a perfect right to do, for \$5,000. He was the man sent to me. He was the man who assigned his option to me. His consideration was \$5,000.

Q.—Plus the \$20,000 of stock? A.—Yes.

Q.—And that cheque was intended for payment of that \$5,000? A.—Certainly.

Q.—Was Mr. Wilson fully aware of that? A.—There was no mystery about it.

Q.—You were doing it as a business transaction? A.—Absolutely.

Q.—Between yourself and Wilson? A.—Yes.

Q.—Paying him money that was coming to him under the arrangement? A.—It was an agreement which everybody knew about.

Q.—Then Mr. Wilson is asked:—

"Q.—Whose cheque was it? A.—I do not recollect, but I have no doubt it was the cheque that you speak of.

"Q.—Whose cheque? A.—That I cannot recollect."

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A.—Well he may not have remembered that; he might have thought it was a draft or a cheque from somebody else that I was giving him, but it was my own cheque.

Q.—Then Mr. Wilson is asked:—

“Q.—Was it payable to your order?

A.—I believe it was.

“Q.—Payable to your order? A.—I believe it was.

“Q.—Who asked you to endorse it? A.—Mr. DuVernet.

“Q.—You endorsed it and left it with him did you? A.—Yes.

“Q.—Did he tell you what he was going to do with it? A.—No, he did not.

“Q.—Did you inquire? A.—No.

“Q.—Why not? A.—Because it was none of my business.”

Q.—You see the way he puts it A.—He may have thought it was none of his business. He made a definite arrangement by which he was getting this option of \$250,000, for which he was putting up half of that cheque. If he had not done that he would have got the whole. It did not make any difference to me which way it was put.

Q.—Then I asked him about this:

“Q.—Is that all you got? A.—Yes, that is all I got.

“Q.—Have you got a promise of any stock in the Union Trust Company? A.—No sir.

“Q.—\$20,000 worth of stock? A.—Oh well now that is a separate matter altogether.

“Q.—Well now I do not want you to forget about it? A.—I will not forget about it, but that has no relation to the other except in this way; Mr. DuVernet and I discussed the question of whether we should sell our \$500,000 of stock or not, and I was in favor of selling, letting the English people take it. Mr. DuVernet was in favor rather of holding it, and I told him that if he could sell that that I would be willing to take as my profit on the \$250,000—I do not think it was \$20,000; I think it was \$25,000. Probably now that is the story that you heard.”

A.—I absolutely refused to have any truck with commissions or selling of profits, or anything else. I was going into this thing for permanent stock, which I intended to hand over to my friends at the actual figures I was paying for the stock, relying on the increase in value of my investment for my reward.

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Q.—Was there such a conversation between you as he indicates; that is that he would permit you to take this stock to hand over to your people in England if you would pay him in addition to the 110 a profit of \$25,000? A.—Mr. Wilson suggested that I could sell this stock to my English friends at a very large profit, which I undoubtedly could, and I absolutely declined to consider the proposition or discuss it. I was not at all sure as to—I was investigating the matter, seeing what the assets of the company were, and I was not going to take Mr. Wilson's statement or anybody's else's statement as to the position of the company so as to make any representation to my friends.

Q.—There is just one thing—and I am sure you will desire to have an opportunity of saying something about that—does it seem to you at all singular that with this desirable investment in your hands, originally taken for your English friends— A.—I beg pardon.

Q.—That you should part with any of it? A.—I have never said it was originally taken for my English friends.

Q.—I thought that you had given me that idea? A.—No. What I had done when it was put before me, I had thought it over carefully, and I knew there was a great deal of dissatisfaction with the existing Trust Company, and the reason was that the solicitors did not as a rule have representation. I acted for 200 or 300 solicitors, and it occurred to me if I would let some of my solicitor friends have stock at exactly what I was paying for it, and give them representation on the Board, so that they could watch for themselves, we would have one of the strongest companies in Canada. That was what I had in mind. I also had English friends who were prepared to take up at any time any desirable investment.

Q.—What I am pointing out to you is this: here you had what you yourself considered to be a most desirable investment? A.—Certainly.

Q.—And you were I suppose feeling solicitous to procure desirable investments for your friends who were seeking investments. Is that a fair way to put it? A.—Without beating around the bush, you want to know why I gave Mr. Wilson that option?

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Q.—Yes, why you put it out of your power to hand over all this property? A.—I did not want to give Mr. Wilson an option at all, but Mr. Wilson was extremely insistent and put before me the good he could do, and the position he was in, and his knowledge of the company, what a strength it would be if I brought him into it, and finally I made my terms so strenuous that I thought the result would be that Mr. Wilson would have no option. I made the term such a short time—that is I only gave it for three months from the time of the purchase, which I thought would leave him a very short time, and I made him undertake to become responsible for the indebtedness which I knew he objected to; he wanted to get out of that if he could, and I made him leave this as a forfeit, and I felt then at the time that I had made that offer that Mr. Wilson would never take that up. That was in my mind. I am telling you what was in my mind.

Q.—That strenuous arrangement you think was in writing; if you had him tied hard and fast it was in writing? A.—Mr. Wilson was giving me this cheque for \$2,500, I understood at the time—my recollection as I told you—that I signed a document which alone would give him the right to come in.

Q.—You would preserve a copy of that would you not? A.—Well, I have not been able—of course I may be able to find one. It became of no value after the thing ran out. I ought to have a copy, and I will have a search made, but it became of no importance after the 1st of September.

Q.—Then Mr. Wilson was asked:—

“Q.—Did you get a specific sum of \$5,000 and a promise of a further block of stock to the extent of \$20,000 as a commission or remuneration from the other side of the transaction than that in which you were engaged? A.—No sir, I do not think there was any such suggestion at all.”

You have told us about that. You say that that was positively the arrangement, that he should have that as a profit on his turning over the option? A.—That is my understanding. What his arrangement with his principals was I know nothing about.

Q.—Then he was asked:—

“Q.—Do you know any connection between the \$5,000 cheque and the \$20,000 which you got from Mr. DuVernet? A.—I do not.

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“Q.—Do you suspect any? A.—No, it has never occurred to my mind except in this way: I supposed the \$5,000 cheque had something to do with the way in which Mr. DuVernet got Mr. Gurney, Mr. O'Grady and Mr. Magee interested. How it was I do not know. He never told me.

“Q.—He never told you? A.—No.

“Q.—He did not tell you for instance that the \$2,500 which he gave you out of his own pocket was half of this cheque? A.—No, he did not.”

You have told us the transaction as it occurred? A.—I have told it as I recollect it. I may be wrong in my recollection but the documents speak for themselves.

Q.—Then Mr. Wilson is asked the question:—

“Q.—Was that your understanding? A.—No, Mr. DuVernet said that \$2,500 was coming out of his own pocket.”

A.—Well, it was my cheque, two-thirds of it was coming out of my pocket; one-third of it would be coming out of those represented by Mr. O'Grady.

Q.—Then he says he has no writing at all, and that no letters passed between you. What would you say as to that? A.—You see Mr. Wilson was down here. The only letter I have any recollection of is the one letter which I received in England from Mr. Wilson. I recollect the expression in it, “I am afraid I must forfeit my money,” and he explained the reason, that he did not want to undertake obligations, family reasons.

Q.—Was there at that time a difference in the prospective value of this investment, Mr. DuVernet? A.—Well, I think I had increased the value of the investment enormously. I had opened up at my own expense an office in London. I had connected myself with some of the very strongest people in London. I had arranged to bring from 100,000,000 to 300,000,000 francs of French money into this company, and I had strengthened the position of the Trust Company enormously, but Mr. Wilson did not know that.

Q.—Mr. Wilson did not know that? A.—No, certainly not.

Q.—You had not mentioned that to him? A.—No, nor had I completed the transaction at that time.

Q.—But with matters as they were when you financed the large transaction, there ought to have been no difficulty in financing the smaller

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transaction of \$250,000? A.—There was no financing about it Mr. Shepley.

Q.—You misapprehend me. You had no difficulty in making the financial arrangements—I am not questioning the propriety of them at all—no difficulty in making financial arrangements to take up the million and a half? A.—None whatever.

Q.—I am asking whether there ought to have been any difficulty whatever in Mr. Wilson making financial arrangements in regard to so comparatively small a quantity as \$250,000? A.—He said in case of his death there would be this large responsibility on his family. That is, he would be responsible for the amount of his share.

Q.—But that circumstance existed just as much at the time he insisted on the option as at the time he was doubtful about taking it up? A.—Then there was another element. They worried him on the Great West Land, and Stevenson had worried him to pay up there. In fact he was generally being embarrassed.

Q.—Then he says that you offered to pay for that stock for your friends in England and he says, “And I understand it was not because he was straitened.” Perhaps I should read you a little earlier. I asked him:—

“You secured from Mr. DuVernet the right to half the \$500,000 of stock without a scratch in writing it is true, but still you are entitled to it? A.—I cannot say that I secured it to him.

“Q.—From him—from him I said? A.—Because that is the original understanding.

“Q.—From him I said? A.—How would I secure it from him any more than he from me?

“Q.—Was he ready to pay that \$500,000 of stock? A.—No sir. That is as I understand it. Of course he can pay for it.

“Q.—He cannot finance the whole \$500,000 but only half of it? A.—Oh dear no, don't misunderstand me. Mr. DuVernet I think offered to pay for that stock long ago for his friends in England, and I understand it was not because he was straitened.”

That of course is all out of line with the transaction as you have stated it to us? A.—This transaction is spread upon these documents, private documents it is true, and there can be no mistake about it. Before I went into it I had arranged for the payment of the \$500,000. I was not called up-

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on to pay anything more for five years under my agreement, so there becomes no question of embarrassment or difficulty whatsoever. Unless I had made arrangement to put up the first payment I certainly would not have taken up the option, and having done that there was nothing more to pay for five years.

Q.—Have you notified Mr. Wilson that his option is at an end? A.—Mr. Wilson only had three months. If that option was not taken up at that time it expired. That is the reason why I think it was in writing. My recollection is that it would be absolutely useless after that period. Before the time had elapsed Mr. Wilson notified me in writing as I recollect, and I will have a search made for that letter. I left a lot of my papers in the London office.

Q.—Your statement before was that he said he was afraid he would have to forfeit— A.—He began that way, unless I had sold the stock in England, that is the way he said it, and he said he could not undertake the liability, and he referred to the North-West difficulty in which he had to put up a considerable sum of money

Q.—Had you sold the stock in England? A.—I had sold a certain amount to those whom I thought would benefit the company.

Q.—You do not make any distinction between this particular block of \$250,000 and the rest of it? A.—Absolutely no distinction.

Q.—We can perhaps get at it better if you can tell us how much has been placed in England? A.—I have offers for very much more. I have declined to sell stock there. As a matter of fact Mr. Chitty has taken a block of it, and wants to take up a very much larger block at exactly the figure which I paid, and I have others who are willing to take up \$100,000 of it—probably about \$150,000, to cover the amount, people who are—

Q.—People who are satisfactory? A.—Or who are wanting to take it. I have refused at present—

Q.—Can you say that \$150,000 would cover it? A.—Yes.

Q.—So that you would be able to handle what you have in England without resorting to this \$250,000 that was under option? A.—Oh, absolutely. That does not interest me in the slightest.

Q.—Then I think Mr. DuVernet I will not trouble you any further at

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present, unless it becomes necessary to ask you something, and I will of course consult your convenience. You will be good enough to hunt up all the papers? A.—Yes.

Q.—What have you here? A.—I have the agreement. I think you have a copy of that.

Q.—I think we have that? A.—I sent down for this cheque. I think that is all. I have not had time to find anything.

Q.—I thought I ought to have let you come at once? A.—Of course you see I take the position, although I have told you the transactions very fully, I take the position that this is outside the scope of this inquiry, going into my private business. You have as much right to do that as I have to go into your fee book. I resent it extremely, but I have out of courtesy to the Commission endeavoured to give you all the facts, recognizing that you have a right to go into Mr. Wilson's transactions, but as far as what took place between my friends and myself in regard to my private stock and financial arrangements, it would be a perfect outrage that that sort of thing should be brought into the insurance inquiry, which has absolutely nothing to do with it.

Q.—You see it is difficult to follow Mr. Wilson without knowing what the transaction is? A.—I have waived my rights, but I do not want my friends to think that this is permitted without protest.

Q.—From the beginning you have made it very clear what your attitude is and we are under no misapprehension with regard to that? A.—No.

MR. SHEPLEY: I have a summons returnable this morning in the matter of Mr. Fowler. Is Mr. Fowler present?

MR. FOWLER: Yes.

MR. SHEPLEY: You have been served with a summons and you are of course perfectly entitled to appear by counsel to show cause to it, or to show cause to it yourself?

MR. FOWLER: I have no counsel with me. I can show cause myself.

MR. SHEPLEY: The summons was issued by the Commission yesterday, and was served on Mr. Fowler on his arrival in town, and it recites the writ of subpoena issued on the 5th September and served on the 10th September upon Mr. Fowler, to appear on the day that is named, Tuesday the 11th, and so on from day to day until his evidence shall be taken,

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and to bring certain books, papers and documents, more particularly set forth in the subpoena, with him. Then it recites that he has failed to obey the subpoena and failed to attend, and so on, and then he is asked to show cause why a writ of attachment should not issue against him for his contempt aforesaid, or why he should not be punished by fine or imprisonment. I move the summons absolute. It is within the knowledge of your Honors of course, and within the knowledge of those who have been attending the inquiry that the greatest possible difficulties have been placed in our way by the absence of Mr. Fowler. Mr. Fowler did not see fit to subordinate his private affairs to the public necessities and interests of the Commission. I move therefore, without making any speech about it, that the Commission do issue a writ of attachment and impose such punishment upon Mr. Fowler as the Commission may see proper in respect of his contempt of the Commission.

MR. FOWLER: May it please your Honors; I was served with a subpoena in this matter as Mr. Shepley has stated. I was tendered at the same time the magnificent sum of \$2 and I was asked to appear here on a certain Tuesday. At the time I was on my way West with my wife and daughter. I had come up from New Brunswick with no definite knowledge whatever that I would be required for any investigation. I did not understand that the scope of the investigation was to be so wide as it afterwards turned out to be; consequently I had no thought in my mind that I would be served. I was here for three or four days. I had no thought that I would be required as a witness, because I did not understand the investigation was going to take so wide a range as it subsequently took. I was here for three or four days in the City of Toronto. I was in all public places. I had no desire to evade the service of a subpoena, or to evade giving evidence in any way. I had however my business in the West. I came up the morning that I was asked to appear before the Commission. I found the Commission was engaged with the Home Life Company that morning. It seemed as though it would take considerable time yet for the company to be disposed of. There were then the principal officers at least of the Union Trust Company to be examined, and judging from the past I thought this would take a very

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considerable time and therefore, as your Honors knew, the meeting of Parliament was coming on early in November, and if I remained here two or three weeks waiting my turn to give evidence, and then had to go away West afterwards it would throw me late for the meeting of Parliament. So I wrote the note I did to your Honors saying that private business had called me away, that I would return just as quickly as I could. I was delayed in the West longer than I otherwise would have been on account of the absence of a gentleman I wished to see, but I sacrificed my private business to a large extent in order to get here as quickly as possible, when I saw the witnesses had been examined and that you were pretty well through with the investigation. I did not wish to delay the Commission in getting through this investigation. The fact that I came here this morning at half-past ten and I find the Commission still engaged in this case would seem to show it has not suffered very much delay on account of my absence. It may be Mr. Shepley in his conduct of the prosecution, or of the investigation rather, wished to put me on at an earlier stage, but still that can be the only reason why he wanted my presence here at an earlier time than to-day because I see the Commission is still sitting, and that can be the only reason so I do not think there has been a waste of time on that account. It seems matters have been gone into pretty thoroughly and particularly, and I am here to-day, I came here to give evidence, and it did seem to me to be rather a peculiar proceeding that when Mr. Shepley knew I was on the way—I kept him advised by telegram of my movements when I was ready to start east—I telegraphed him from Revelstoke, and I telegraphed him from Winnipeg, but when I arrived at North Bay I was asked by a gentleman if I knew if Mr. Fowler was on the train. I said I have the honor of bearing that distinguished, somewhat famous name at the time, and he showed me a telegram he had received from Mr. Shepley saying for me to come through at once. That was yesterday afternoon. They have not perfected the system of balloons so that it would be possible for one to come by balloon. The train was eight hours late and I got here at half-past ten and I got to my hotel, and I was served with a subpoena by Mr. Ross to show cause why I should

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not be locked up for a year and a day. I can assure you I have no desire to show any contempt or disregard for this Court in any way, shape or form, and I regret the circumstances were such that I could not be here without very great sacrifice to my private business, and I do not think your Honors would ask me to make that sacrifice before the Commission has finished its labors with respect to the Foresters.

MR. SHEPLEY: The gentleman has made it plain, if it was not plain before, that he has subordinated his public duty to this Commission to his private affairs. He has stated plainly that he left here on his private affairs. He says he has been detained longer than he expected, and he justifies his conduct by suggesting that inasmuch as he is here now before the enquiry is finished that no contempt has taken place. He is perhaps not aware—I am willing to concede that perhaps he may not have been aware—that if he had been here in obedience to his subpoena he would have been called at a stage at which his evidence would have so facilitated this Commission with that class of inquiry we are now engaged upon, it would have been finished long, long ago. The delay which has taken place by reason of our not having been able to get his testimony is hardly possible to estimate. I do submit to your Honors that if the affairs of a witness who is subpoenaed can be made to override the public convenience as Mr. Fowler has made his affairs override the convenience of this tribunal, then we had better abolish inquiries by Commission.

JUDGE MAC TAVISH: We have Mr. Fowler's explanation, and, what is better still, we have himself here, ready I understand to be examined, and to assist the Commission all he can in the inquiry that we are holding. Under these circumstances I would not be disposed to make any Order at the present time on the motion. As Mr. Shepley says there has been some inconvenience—

MR. FOWLER: Which I regret your Honor.

JUDGE MAC TAVISH: We have tried our best to meet the convenience of persons called before us as witnesses and counsel, but I think in your case the embarrassment to the Commission has been greater than in any other case before us on account of the long delay.

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MR. SHEPLEY: Your Honors do not see fit to make any Order at the present time?

JUDGE MAC TAVISH: No.

MR. SHEPLEY: May we have an understanding with Mr. Fowler that he will facilitate the Commission in every way, no matter where we happen to be sitting, because I fear it may not be possible to finish with Mr. Fowler to-day and your Honors cease sitting in Toronto to-day?

JUDGE MAC TAVISH: I think we can fairly ask Mr. Fowler to do that.

MR. FOWLER: Certainly I will. I would rather you would not take me out to Winnipeg.

JUDGE MAC TAVISH: No, we will be here, and east of here, and I suppose that will suit you better.

MR. FOWLER: Yes, east of here will suit me better than coming here.

CHARLES MAGEE, sworn. Examined by

MR. SHEPLEY: Q.—You are at present an officer of the Union Trust Company? A.—Yes.

Q.—Your position there being what? A.—President.

Q.—President of the Union Trust Company? A.—Yes.

Q.—And you are connected also with the Crown Bank I think? A.—Yes.

Q.—What is your position there? A.—Vice-President.

Q.—And the President is Mr. —? A.—Gurney.

Q.—And the General Manager Mr. O'Grady? A.—Yes.

Q.—You were not a shareholder in the Union Trust Company, and not connected with it in any way prior to your recent purchase of stock? A.—No.

Q.—Who first approached you upon the subject? A.—Mr. O'Grady was the first one that spoke to me.

Q.—Mr. O'Grady spoke to you first about it? A.—Yes.

Q.—Who had spoken to him? A.—Mr. DuVernet.

Q.—And what was the proposition that was laid before you when you first heard of it? A.—Merely to know if I would take a Presidency and become a working President, giving them three or four days a week.

Q.—That was all? A.—That was all.

Q.—Nothing at that time about purchasing stock? A.—No.

Q.—Except in so far as you would necessarily buy stock in order to become President? A.—Yes.

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Q.—That was all you heard on that occasion? A.—That was all.

Q.—When was it next taken up?

A.—In Toronto. I came up and saw Mr. DuVernet.

Q.—You made an appointment with him and came to see him? A.—Yes, and I agreed to accept the position temporarily.

Q.—And was there anything then about buying the stock? A.—No. They agreed to qualify me for President, and give me an opportunity of looking into the transaction.

Q.—Were they proposing that there should be a large purchase of stock? What did you hear about the change in the ownership of the majority of the stock? A.—I saw the draft agreement. The arrangement had been made. The agreement was there.

Q.—You saw the draft agreement? A.—Yes.

Q.—What was there by way of indicating for whom Mr. DuVernet was buying because he is the only person that is mentioned in the agreement? A.—Well, it mentions that he had some English friends that were going into it, and he had made arrangements with others in Toronto to take it up.

Q.—And what were you to do? A.—He asked me if I would become President and give attendance for at least three or four days a week.

Q.—And what else? A.—Nothing else.

Q.—Well, about financing the transaction? A.—He did not ask me anything about that.

Q.—That came later, or had that been arranged? A.—No, it had been arranged before.

Q.—Were you aware of the arrangement that had been made when you were talking with Mr. DuVernet? A.—No, not entirely.

Q.—Who knew about that? Mr. O'Grady? A.—Mr. O'Grady I think knew of it. Mr. O'Grady and Mr. DuVernet.

Q.—Apparently you do not seem to have been actively concerned in arranging the terms? A.—No, I had nothing to do with it.

Q.—Where is Mr. O'Grady just at present? A.—I do not know. I think he is out visiting some of the branches.

Q.—Is he expected to return very shortly? A.—I think so.

Q.—Is it possible to get the papers

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in connection with the matter in his absence? A.—No.

Q.—They are locked up are they? A.—Oh yes. I have no idea where they are.

Q.—Even you as Vice-President cannot get at the papers in his absence? A.—No.

Q.—Had you any knowledge of the dealing with Mr. Wilson? A.—None whatever.

Q.—You do not know what the arrangement with Mr. Wilson was? A.—No. His evidence as I read it in the paper was news to me.

Q.—You were not concerned in the negotiations that took place with him? A.—No.

Q.—Mr. DuVernet would know about that, and possibly Mr. O'Grady? A.—I do not know if Mr. O'Grady knew or not.

Q.—You do not seem to be able to give us much assistance? A.—I am very sorry.

Q.—Are we to understand that we will be facilitated as soon as Mr. O'Grady returns in getting at the papers? A.—I have no doubt of that.

Q.—I think I will not trouble you any further at the present time, Mr. Magee.

DR. ORONHYATEKHA, recalled.
Examined by

MR. SHEPLEY: Q.—There are two or three points that I want to ask you about, having regard to the evidence which has been taken since you have been examined. You remember in connection with the Great West Land Company that 100 shares of stock of that company appear to be vested in you? A.—Yes.

Q.—What I want you to tell us is this, with such details as your memory will enable you, just how that came to be? A.—Well, let me say in the first place that the statement made by Mr. Foster that I went to a meeting of the Directors and asked that 100 shares be given me, is wholly erroneous. I never did anything of the kind. How I came to have first knowledge that I had any shares was one of the company came to me and asked me to attend a meeting of the Great West Land Company. I said to him "I cannot attend because I am not a member." He replied, "Oh you have been made a shareholder of the company."

Q.—Who was that? A.—Mr. McGillivray, and I said to him, "Well,

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I am glad of that. That is more money for my home."

Q.—Meaning the— A.—The Foresters' Home. I did not go to the meeting. I was too busy, and I do not think I ever attended a meeting of the company until the final instructions to have me taken out and have my shares turned back to the Union Trust Company. As a matter of fact I did not know what shares, how many shares were in my name until this inquiry began.

Q.—Then I think it is the fact that you do not appear to have been present at the meeting of the 23rd June, 1903, when the agreement apportioning or distributing the stock was approved? A.—I do not think I was. I have no recollection of attending any such meeting. I am quite sure I was not.

Q.—Did you ever have possession of a certificate in respect of that stock? A.—No.

Q.—You never had? A.—No.

Q.—Ever see one? A.—No. Never had any official information or any other information with regard to the stock except as I told you when Mr. McGillivray told me I had been made a shareholder.

Q.—And I think we observed when the agreement was before us earlier, we observed your signature was not on the agreement of the 22nd June by which that stock is set out? A.—No. I never signed it. I do not think it was ever brought to me to sign, I think not.

Q.—Then there are some other matters that have been developed in Mr. Foster's testimony that I want to ask you about. There seems to have been two payments made to you, a payment of \$1,250 and a payment of \$2,000 in respect of certain North-West Land transactions? A.—Yes.

Q.—What do you know about these? A.—Dr. Montague paid into my private secretary \$2,000. I think it was in the latter part of December, sometime in December of—

Q.—1903? A.—1903. I was not informed of the payment until I returned from abroad sometime in April or May of the following year.

Q.—And who informed you of it then? A.—My private secretary and Dr. Montague.

Q.—What were you told about it? A.—Simply that a payment was made to me as my share of some profits, I understood in the Montague syndicate, and I gave instructions right

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away to hold the money for the home, as well as the other sum which I think was paid in by Mr. Foster.

Q.—Were both sums paid in during your absence? A.—Oh yes. In fact I did not learn of the payment until very much later on. Last year before going away to India it was thought not advisable to draw any more money from the funds of the Order for the Home, and I left instructions if it was necessary to pay the construction expenses out of my private funds rather than to stint them, and I pointed out these two sums of money being available for that purpose.

Q.—Were they then in your account? A.—Yes.

Q.—The moneys were then in your account? A.—Yes.

Q.—You had not withdrawn them from your account? A.—No, my intention was to hold these payments until the final closing up of the Home, when it was finished. When I returned I found that my representative who had authority to check out from my private funds had paid out over \$8,000 on account of those expenses, and it is standing for final settlement.

Q.—That is the whole account of the construction of the Home? A.—My idea was not to include that in the account of the Home, but just to simply pay off so much of the indebtedness, and it would then appear that the Home cost so much less.

Q.—Your intention was to utilize these sums with other private funds of yours in keeping down the apparent expense of the Home? A.—Yes.

Q.—And you say they were used for that purpose? A.—Oh yes.

Q.—Is there any doubt about that at all? A.—Not the slightest.

Q.—You have not told me what you heard with respect to the \$1,250 when you were told about it? A.—Simply that it was a payment from the Union Trust Company.

Q.—In respect of what? A.—I do not know. I never inquired. I never spoke to Mr. Foster about it, and my secretary of course takes all moneys paid in to her without inquiring. She generally when I get home tells me of any such payments.

Q.—Do you say you had no further information than you have given us now with respect to what these two payments were about? A.—Absolutely nothing.

Q.—You did not know? A.—Except that they were payments outside of

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my ordinary income and should go into the Home.

Q.—Did you know or had you any idea that either of these payments was in respect of Commission? A.—Oh no. I was assured by Dr. Montague that it was my share of the profit in the Montague Land deal.

Q.—Then the cheque to you I think apparently has your name upon it—one of the cheques? A.—Well it had not.

Q.—You did not write it? A.—If my name is on it it is signed by somebody else.

Q.—This is the cheque for the \$2,000 given by the Union Trust Company, payable to you, and that is how it was endorsed. Whose endorsement is that? A.—I think that is Miss Bailey's. She got the money.

Q.—She would have a right to put your name to the back of it to deposit it? A.—Oh yes. This too may seem a little bit strange to the Commission, but as a matter of fact I do not give much attention to my private affairs. I do not think I have seen my bank account for the last four or five years. I do not suppose I have signed a dozen cheques in that time myself checking out my own money. Miss Bailey manages for me very much better than I could do it myself.

Q.—Then did you receive any other moneys from the Montague syndicate, or ostensibly from the Montague syndicate? A.—No.

Q.—Did you understand when the affairs of the Montague syndicate were transmuted into a mortgage indebtedness, that the Montague syndicate were retaining any profit that had been made? A.—No.

Q.—That they were getting out of the transaction with a private profit? A.—No.

Q.—You did not understand that? A.—No. I believed they were getting out, giving the whole thing over to the Foresters.

Q.—And making no profit themselves? A.—No, not a cent.

Q.—Is that the arrangement you were insisting upon? A.—Certainly, and was the arrangement which was agreed to by us all, I understood, including Mr. Foster.

Q.—Then there is a matter that we were not quite ripe for when you were here before, and it will be very brief I think. I want you to tell me about that colonization scheme? A.—That was conceived—

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Q.—What was that in connection with? A.—With the Order.

Q.—In connection with what property? A.—Any property we at that time held was intended to be turned into this colonization scheme.

Q.—That was in the North-West? A.—Yes. Every bit of land that the I.O.F. could control was put into this.

Q.—Briefly outline the scheme itself? A.—It was to put settlers upon our lands at practically cost price, just covering the expenses, putting them upon alternate sections, and if necessary helping them for a year or two at the start, adding the expenditure on to the cost of the land, and I believe it was the best scheme that the Order ever undertook.

Q.—Better than the Home? A.—Better than the Home because it would have added to the population of Canada. It would have made homes for good young men. It would have formed a colony of Foresters also.

Q.—I thought you were coming to that. It was sowing the seed for a group of Foresters? A.—Yes, my idea was that every man who was eligible who went up there should be a Forester, and there was no question in my mind that selling the property in that way in alternate sections that the Order would eventually make an enormous profit, and when I came home from India and found all this had been reversed by the Executive my heart was nearly broken. The best advertisement the Order ever had was that scheme. It brought money into the treasury and strong stalwart men into our country.

Q.—I have some papers here which were collected for me, and the first purports to be an agreement between the Supreme Court and Mr. Thomas Bayles Coombs, Commissioner of the Salvation Army. Is that in connection with this? A.—That is the only piece of our land, as I understand it, that was actually used for colonization purposes.

Q.—That was actually brought under the scheme you have spoken of? A.—Yes, and the fact that it was taken up so readily gave some evidence that my idea of the scheme was correct, that it would become very popular and could be easily managed.

Q.—We will just look at this. The Supreme Court is to be known as the party of the first part and the Commissioner of the Army as the

party of the second part. The party of the first part agrees to pay a commission of 10 per cent. on all sales of lands made to persons sent by officers of the Army to the officers appointed by the Supreme Court to superintend their colonization work, such officers are to be authorized and appointed in writing, and in the first place you are making it an inducement to the Salvation Army to promote sales of land? A.—Surely.

Q.—By giving a commission? A.—Yes.

Q.—Then the Commissioner agrees to use his best endeavors to induce— (Reads clause.) A.—That was the first scheme, that a man applying when placed up there must have some little money to begin with, but we went further than that; where we found eligible persons, if they were Foresters and had not a cent, we would help them and make homes for them.

Q.—The third paragraph provides that persons must produce credentials in duplicate. Then you guard yourselves about the commission. The Army is to get half the commission when the first payment is made and the remainder when the third payment is made? A.—Yes, so that we would not be out of pocket so much.

Q.—Then there are two agreements between yourself and the purchaser, A and B. If the purchaser does not make his third payment, then there is not any further commission. The other half of the commission is not to be paid unless he supplies a substitute purchaser? A.—Certainly.

Q.—Then there is an agreement that he will deliver 500 families at the railway station nearest the lands to be settled. Although said families may have little or no money each member must be honest, law-abiding, robust, not a socialist, anarchist or agitator, and the medical examination made by the Government officers is to be accepted by you? A.—Yes.

Q.—Then you are settling the families so received on 160 acres of land, within 15 miles of a railway station or elevator? A.—Yes.

Q.—Then they are to be selected in each case with the concurrence of the Army? A.—Yes.

Q.—Then you are to advance on the conditions subscribed in condition B \$500, or its equivalent value in implements? A.—That refers to our principle of aiding.

Q.—And that has to be delivered

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at the actual cost laid down on the settlers' premises? A.—Yes.

Q.—Then if a single man is considered desirable he is to be considered on the same basis as a family? A.—Yes.

Q.—Then a provision for not less than 10 or more than 25 families being delivered at any time and to be 20 days apart, and not more than 100 families to be delivered or accepted under clauses 5 and 6 per year. Then you are to have certain notices as the settlers arrive. Then there is a provision as to agreement A, which is an agreement as to loans made in cash or kind, and there is to be interest at 6 per cent. and 1 per cent. out of that is to go to the Army? A.—Yes.

Q.—Then you are also going to go in any township where it is contemplated to locate settlers—you are to go free of expense, and select your town lot for the purpose of worship, not to exceed three acres? A.—That is right.

Q.—Then there is a provision for terminating the agreement on 6 months notice? A.—Yes.

Q.—Then is this the report of the working of the scheme? A.—Yes, that is Mr. Hobson's report, our General agent.

Q.—Was that an encouraging report? A.—Oh very.

Q.—You think it was? A.—Yes.

Q.—“Up to date we have settled over 20 families in this colony.” Whereabouts was the colony that was reported upon? A.—Carrot River.

Q.—In this report he refers to the increase in the price of land. (Reads report.) A.—That would have been the effect all over.

Q.—Then there is an account of the expenditure. Then there was a superintendent employed, and so on. Then a proviso with respect to manufacturers giving you a general agency for the sale of their implements covering a large area? A.—Yes, of course that is just a detail.

Q.—Then there is a suggestion as to handling the profits of the land in the colonies, erection of a storehouse. Then there is a statement with respect to the timber. The lumber operations are carried on too? A.—Yes.

Q.—Then there is a statement with respect to the nature of the land. He speaks very highly of the lands themselves? A.—Yes, and he is a good judge.

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Q.—Then the erection of farm buildings ought to be controlled by the company. Then there is a plan here of the implement shed. Then what change has taken place in the policy with respect to this scheme since then? A.—Instead of having all the Montague lands, and all the other lands, we have sold them outright instead of holding it.

Q.—What have you available for the purposes of this colonization scheme? A.—5,000 acres is what I was told.

Q.—Then there are the details of the construction of this building. Then there are some further details of the construction. We will pass those over. Then I have annexed to this, agreement B, that was under your first scheme, an agreement which practically had the effect of a lease until the lands were paid for? A.—Yes, we had some lien on the lands until they were paid for altogether, so that losses were reduced to a minimum.

Q.—In what condition is the scheme now, reduced as it is in its proportions, is it a successful and well working scheme? A.—Yes, it is working so well that every time I think of it—

Q.—Your heart breaks again? A.—Yes.

Q.—How many families have you there now, do you know? A.—Between 20 and 25 families.

Q.—Are they of the class that you have been anticipating that you would colonize with? A.—Oh, decidedly.

Q.—All Foresters? A.—Well, if they are not now, if I have my own way they will be in a very short time.

Q.—Then I put these documents in as one Exhibit (No. 582.) One other, general question. Were you ever a consenting party to the giving up of that compensation stock in the Great West Land Company? A.—Certainly not. I never was more amazed when I found that my stock was not turned back as I had given instructions.

Q.—And what about the other stock, the 237½ shares? A.—Well, I never gave any consent about any distribution or return of that. I don't think any of my colleagues did either.

Q.—Then I think that is all I have to ask you, Doctor? A.—Will you allow me to make a statement, Mr. Shepley?

Q.—If you do not bring in a lot of new features about the Foresters? A.—No, I think we have had quite enough of that. It is with regard to

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the statement that I am an exceedingly wealthy man, made, of course, out of the Order. Well, in one way, I am.

Q.—Have you attributed that statement to me? A.—Oh no, I think it was made to you, however, and probably you did not believe it, and you were quite right. I have spent about \$100,000 in improvements on Forester's Island. Last year I deeded the whole property over in order to enable the Executive in the future, to carry out what my idea was in the first place. In locating the Orphans' Home on the Island my idea was to give the management absolute isolation for their children. I have provided in that deed that I shall have the use of the castle during my life, which I think the Order can afford to let me have; and my daughter has a house which she shall have the use of during her life; and my son has a house on the Island which also he is to have the use of during his life. After our deaths the whole property becomes absolutely the property of the Independent Order of Foresters. My income to-day is just my salary; turning over everything outside of that to the Home. I have not \$2,000 worth of property outside of the Home. I think I have four lots in Deseronto, worth about \$200 or \$300 a piece, and that is my wealth, except what is on the farm, in the pines on the reserve. That, of course, I cannot sell to white men. That is Indian property. While I live and while my children live it is ours absolutely, but we cannot dispose of it. And that is my wealth. Except, I hope, in the confidence and the esteem of my membership.

Q.—That is a valuable asset, but you would not think of turning that into cash? A.—Well, I think if I were to ask any of the members to give me some cash they would not hesitate to do it any time, but I am not just now called upon to turn that asset into cash.

Q.—Then, Doctor, is that what you wished to say? A.—Yes. I thank the Commission very much for giving me the opportunity of making this explanation.

GEORGE W. FOWLER sworn; examined by

MR. SHEPLEY: Q.—Mr. Fowler, you live in Sussex, New Brunswick? A.—I do.

Q.—And you are a member of the House of Commons? A.—I have that honor.

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Q.—You have been a member of the House of Commons, since how long? A.—Since 1900. The General Election of 1900.

Q.—What is your profession? A.—Barrister.

Q.—When did you first have anything to do with the lands in the North-West, which you and others acquired from the C. P. R., give me the origin of that, please? A.—I cannot give you the exact day, but some time in the month of October in the year 1902, Mr. Pope and myself on behalf of ourselves and others got an option on a tract of land in the North-West; beginning with lands about what is called or known as the elbow of the Saskatchewan River, extending westerly along the then proposed route of the Canadian Northern Railway, and then part of the land lay in East of Wetaskiwin, near what is known as Birch Lake. I think it would be east of Wetaskiwin. We got an option on that land for \$3.50 an acre.

Q.—Where is the option? A.—I don't know.

Q.—Where ought it to be? Why do you say you do not know? A.—Well, because I don't know, that is the reason why I say it.

Q.—Who has the custody of it? A.—I couldn't tell you that. The first option—when I speak about the option—I think it was verbal; I don't think we ever had a written option.

Q.—Do you say so? Is that the way the C. P. R. does its business? A.—I don't know how the C. P. R. does its business. I know how it did business with me, did this business. When you say "Does its business" you make your question very general sir.

Q.—You got an option at \$3.50? A.—I did.

Q.—Do you say it was in writing or not? A.—I say that it was not in writing at first. At least, whether it was ever reduced to—whether there was ever a memorandum afterwards between Mr. Griffin and myself I cannot say now, you know, because I did not carry in my mind, I cannot carry in my mind every detail of the transaction.

Q.—I should not have thought that was a mere detail. I should have thought that was the business way of reducing a business arrangement into being? A.—Yes, one would think so.

Q.—Perhaps your attention has not been directed to it recently, and perhaps if you think a little, you will

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remember that there was an option, or remember that there was not? A.—The first matter was entirely verbal and I have no recollection now of it ever having been reduced to writing.

Q.—How did you know what lands you were to range over and select from? A.—We had a map. A C.P.R. map.

Q.—Where is that? A.—I cannot say. I don't know.

Q.—You do not know? A.—No. I might be able to discover it, but I have not been home since I have been served with a subpoena.

Q.—Then I wish, as I ask you for papers, that you would make a jotting of the things I am asking you for, that you do not happen to have here? A.—Yes, I will be very glad to. I may say, Mr. Shepley, that I am just a little bit careless about keeping those things because, as far as I was concerned the transaction was closed. Now, if you will supply me with a pencil, please.

Q.—First the option contract. Here is a pencil, I do not know whether it will be long enough to take down the names of all the documents I shall want from you? A.—What do you want first?

Q.—First the option or contract with the C.P.R.? A.—Well, I told you that was verbal, so I cannot possibly bring that, except in my memory.

Q.—Besides that you said you thought there may have been a memorandum? A.—I said I was not certain about that, because I am not certain, neither am I certain about it as to whether there was a memorandum or not. At any rate I can give you what the verbal contract was.

Q.—Whatever there was I want? A.—Yes exactly. "Option." I think that will be sufficient for that.

Q.—I suppose you have some correspondence upon the subject? A.—With whom?

Q.—Some correspondence? A.—Oh, there was a lot of correspondence.

Q.—With whom was the correspondence? A.—Various parties.

Q.—Who were they? A.—Well, there was some correspondence with Mr. Griffin, the Land Commissioner.

Q.—Then jot down "Correspondence with Griffin," please? A.—I wouldn't have that. I wrote to Mr. Griffin.

Q.—I want you to help me find it? A.—Yes, well "Correspondence with Griffin." I am sorry I am not a

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shorthand writer; it will take me a little time.

Q.—I am not going to hurry you. With whom else did you correspond upon the subject? A.—I suppose I corresponded with Mr. Pope and with various members of the syndicate.

Q.—Jot down, please, "Correspondence with various members of the syndicate?" A.—Yes. Now remember, I don't think I have a bit of this correspondence myself at the present time, because I haven't kept it, but I will use my utmost endeavor to find it out for you.

Q.—No man could ask more than that? A.—Thanks.

Q.—At least I won't. With whom else did you have correspondence? A.—Oh, I don't recall. I might have had correspondence after we sold the property.

Q.—With whom? A.—I mean when we were negotiating for the sale of the property.

Q.—With whom would that be? A.—Well, I suppose it would be with the parties we were selling to.

Q.—Namely? A.—That would be, well, I don't really know what they called themselves at first; the name was changed afterwards to the Great West. It was the Ontario Town Site or something of that kind. New Ontario.

Q.—"Farm and Town Site Syndicate, Limited"? A.—Yes, you have the name. I think I had some correspondence with Mr. Curry, who was the solicitor.

Q.—Then write down, please "Correspondence with Mr. Curry"? A.—In fact I tell you frankly I have forgotten all about that I had correspondence with Mr. Curry until he reminded me of it this morning, and as I think I saw him give you the papers, you probably have that. However, I will make a note of it as you say. You probably have that in your own possession now.

Q.—Then with whom else? A.—About this land, do you mean?

Q.—Yes, that is what I am asking you about? A.—Well, we were trying to sell them. I don't know—I couldn't tell you—I might have had some correspondence with real estate men, you know—I might have had some correspondence with real estate men about them.

Q.—Make a jotting "Correspondence with real estate men." With whom else? A.—Now we have with the parties, Land Commissioner

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Griffin, we have with the members of the syndicate, we have with Mr. Curry and with real estate men. The parties to whom we were selling, that would be this company. There may have been correspondence; I don't know that there was.

Q.—What do you mean by “this company?” A.—The company you named. The New Ontario Farm Site Company. You have spoken of that already.

Q.—You can include that under “Curry correspondence?” A.—Yes, exactly. Well, I cannot recall any other parties, I would not say there were not.

Q.—Did you ever have any correspondence with Mr. Wilson, Mr. Foster, or Mr. McGillivray? A.—I don't think I ever had any correspondence with Mr. McGillivray at any rate, because I don't remember seeing him in the transaction at all about the land. I don't recall anything with him. Of course I would not say there was not, but I simply don't recall, and there may have been correspondence with Mr. Foster. Will I make a note of that?

Q.—Please? A.—I will try and see if there was. “Foster, Wilson and McGillivray.”

Q.—With whom else? A.—Well I think you have covered the circuit pretty well. I don't recall anybody else.

Q.—Did you have any correspondence with anybody representing the C.P.R., except Mr. Griffin? A.—I don't think I had.

Q.—Make a jotting to look for that, will you? A.—All right, I will put that under the general head of “C. P.R. officials.”

Q.—You do not recall anybody else? A.—No, I do not recall anybody else.

Q.—Then if you are successful in getting for us all the correspondence that is indicated there we will get a pretty good idea of what the correspondence was, at all events? A.—I should think you would, yes. That covers a pretty wide range.

Q.—Then you say it was in October, 1902; you do not think there was a written option, but you say the area over which you were to range in making your selection was defined by a map? A.—Yes. we had a map, a C. P.R. map.

Q.—Write down “Map?” A.—Didn't I put that down?

Q.—No, not yet? A.—All right, we will put that right alongside

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“Option.” I was going to tell you, they have maps of the country where their land is; their land is marked in red on these maps; the blocks, the sections are marked in red, and Mr. Griffin, as I remember it now, took a blue pencil, you see when I came to locate I was in his office, and he took a blue pencil and marked out certain blocks.

Q.—Out of which you were entitled to make your selection? A.—Yes.

Q.—What was the origin of you and Mr. Pope talking up this scheme of getting land from the C. P. R.? How did that come about? A.—Well, of course, Mr. Shepley, I don't see what that has to do with this investigation, to start with, and I protest against giving evidence with respect to it. That was purely a private matter, how we came to get this land, our taking up the option, so far as the purpose of your investigation is concerned, in my humble view. When you get to the transaction between us and the Union Trust, who represented the Foresters, of course you have a perfect right to examine into it.

Q.—Yes? Well, I can only beg you to take a little wider view and to tell me what was the origin of it? A.—I submit myself to the ruling of the Commission.

JUDGE MacTAVISH: Answer the question. A.—Now then, let me hear your question?

MR. SHEPLEY: What was the origin of your enterprise? A.—How did it come about?

Q.—Yes, how did it come about? A.—How did it come into our minds to make this purchase, is that what you mean? I want to see how far back you want to go.

Q.—You manifestly understand me? A.—No, I don't. Do you want to go back to the time it first entered into the mind of myself—I could only say as to my own—that it would be a good thing to invest in North-West lands. I will go back that far if their Honors have ruled that I shall.

Q.—I want to get the inception of the negotiations between yourself and your fellow members of the syndicate with respect to this purchase of land? A.—Oh well, Mr. Pope and Mr. Lefurgey, Mr. Bennett and myself were in the North-West. Previous to that Mr. Pope and I had had a conversation about buying lands; once in Ottawa. But when we all first met in connection with this matter, that is Mr. Lefurgey, Mr. Bennett and Mr.

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Pope and myself, was on an occasion when we happened to be together in the North-West, and we discussed this matter. We saw the tremendous fertility of the lands in the North-West; we thought there was a great promise for that country; we thought there was a good opportunity to make money; we shared, with the great majority of mankind, that desire to make money, and we discussed the purchase of some of this land. Companies were coming from the other side, people were coming from the other side, Americans; people were coming from Canada, not in such great numbers, to speculate in North-West lands, to buy North-West lands for the purpose of re-selling them and we thought it would be a good scheme for us. We did not see any reason why we should not, because we happened to be members of Parliament, we did not think that debarred us from purchasing lands, we did not think it debarred us from endeavouring to make a living or endeavouring to make money, as long as we did not steal it. We thought it was a perfectly legitimate enterprise and therefore, we made up our minds that we would see if we could not buy some of these lands as well.

Q.—There were just the four of you associated together at that time, is that right? A.—There was not any association at that time at all.

Q.—Four of you were discussing the matter? A.—Four of us were discussing it; four of us at one time discussing it.

Q.—And you came to the conclusion that you would buy some lands if you could? A.—Yes.

Q.—The four of you would enter into a joint transaction? A.—No, we did not mean anything of the kind. The whole matter was inchoate at that time. There was nothing definite decided upon or anything of the sort, as to how many persons would be associated or not. Nothing of the kind was considered.

Q.—Was that conversation looking towards a joining together? A.—Our conversation was looking towards, yes, a purchase in which we would be interested at least, and perhaps others. There never was any discussion as to the number or as to confining it to any particular number at all, at that time.

Q.—The idea was that whoever joined forces you would jointly undertake a purchase, with a view, of course, of re-selling? A.—Well, if we joined of course we would jointly

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undertake the purchase. That is self evident.

Q.—That is what you were looking forward to in the course of this discussion? A.—We were looking forward to engaging in the enterprise of buying a block of land?

Q.—Jointly, is what I am trying to get? A.—We, with others, would be interested in it. It was not intended that it would be confined to these persons. I don't know, there might have been a number, ten, mentioned at that time. I wouldn't say for certain. I don't recall every little incident of the conversation between us, back and forth. In fact there was not very much talk as far as the four of us were concerned. The talk was principally between Mr. Pope and myself. We were really the originators of the scheme and prepared to take any responsibility that follows.

Q.—Did you arrive at a conclusion with regard to how much you would venture? A.—Not at all.

Q.—How much land you would take? A.—Not at all, no.

Q.—That was not even discussed? A.—Oh no, that was not even discussed, as far as I recall now. There was certainly no conclusion arrived at, and it was not even discussed at that time, so far as I recall. I won't say that it was not, you know—I won't say that a figure was not mentioned, but I certainly will say that the figure which we finally bought was not mentioned.

JUDGE MacTAVISH: The number of acres? A.—Yes, the number of acres.

MR. SHEPLEY: Mr. Lefurgey has said the conversation at first was about 100,000 or thereabouts? A.—Yes, if a figure was mentioned at that time at all, it would not exceed 100,000 you see.

Q.—Subsequently the scheme presented such good features that your minds grew a little on the subject? A.—Subsequently Mr. Pope and I increased the amount for which we applied to 200,000 acres. That is what happened subsequently. I am very sorry we had not got half a million.

Q.—Well, then, Mr. Fowler, did you, during the course of that trip come to any definite conclusion at all that you would look further into the matter? Was that an understanding between you, that the matter should be further looked into? I do not say that you had finally concluded to buy, but that you should look further into it and see what could be done? A.—

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I don't remember as to that. I know Mr. Pope and I came down to Winnipeg. We did not remain during the whole time with the party. We were out in the West in connection with looking over the country from a political standpoint.

Q.—You need not tell me that? A.—No, you know that already.

Q.—It does not cut any figure here at all? A.—I would not like to say that. I think it cuts a big figure. However, that is where you and I will differ.

Q.—Then go on and answer the question I asked you, if you will? A.—Certainly. I don't remember just now what your particular question was at that time?

Q.—My particular question was, whether at that time you came to the conclusion that you would look further into the matter and see what could be done about it or whether it was left at large? A.—Oh well, as a matter of fact I don't know what we may have discussed or talked, I cannot recall now, but as a matter of fact Mr. Pope and I came down to Winnipeg.

Q.—On behalf of those who you expected would associate with you in the transaction? A.—Oh well, certainly, we were acting on behalf of ourselves and them.

Q.—On behalf of yourselves and others? A.—Yes, ourselves and others, no particular persons at that time.

Q.—Except these two? A.—Except these two gentlemen were to be there, they were to be in, of course.

Q.—What did you do at Winnipeg? A.—At Winnipeg we went to the Hudson Bay Company, at first, and looked into their lands. The gentleman of the Hudson Bay Company advised us to go to the C. P. R.; he said the C. P. R. were asking less for their lands than they were and that he himself had recently bought some C. P. R. lands, quite a block. He said lands they were asking \$5 for could be bought from the C. P. R. for \$3.50. He was a very nice gentleman; I don't recall his name now; he was an official of the Hudson Bay Company; I don't know whether I knew his name at the time or not; it doesn't make any difference. We then went down, after having been to the Hudson Bay first, we went down to the C. P. R., and we asked their prices and they told us what their prices were, but Mr. Griffin himself was not at home at that time, he was away.

Q.—What did you understand the prices were? A.—\$3.50 an acre.

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Q.—Where did you understand the lands were, where you afterwards ranged for your selection? A.—Yes, north of the Saskatchewan. Those were the lands we wanted.

Q.—But Mr. Griffin was not at home? A.—Mr. Griffin was not at home. We looked over the maps and brought some maps away with us. Do you want those?

Q.—Yes, I want all the maps you had? A.—All right, I will put this down in the plural.

Q.—Well, you brought some maps away with you? A.—Yes.

Q.—What more did you do there with the C. P. R.? Anything more than just get some maps and inquire the price and location? A.—We stated to whoever the gentleman was we were talking to, the official there, that we wanted to buy a large tract of land, talked over the matter, I couldn't tell you exactly what we said.

Q.—Did you do anything more than talk—did you agree to anything? A.—Oh no.

Q.—You did not make any application for an option or for a contract or anything of that sort? A.—No, not there, no.

Q.—What was the next stage in the matter? A.—Well, we thought it was very important, of course, for us to get as near to the location of the railway as possible. It would increase the value of the lands very much.

Q.—What railway are you speaking of now? A.—The Canadian Northern which was going north of the Saskatchewan, you see. Consequently we came down to Toronto and saw Mr. Mann of Mackenzie and Mann, and we inquired of him the route of the road. As nearly as I remember it now. Mr. Mann told us, that, as far as the route was surveyed, we could ascertain it very easily by going up there and going over it. We thought that there might be a quicker way, a cheaper way, an easier way, if he would just indicate on the map as nearly as possible—he or his engineer—indicate on the map as nearly as possible, where the route would be.

Q.—Not only the surveyed, but the unsurveyed part? A.—Well, of course, the unsurveyed part would have to be very general.

Q.—That would be approximate? A.—That would be approximately, of course, that anyone could pretty well tell from the map, because, as far as it was surveyed they would know that

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they had to go by a certain route, they were going to Edmonton and I suppose a layman could arrive at a fair guess with respect to that. However, that is what we did.

Q.—That is what you thought was the easier way, but you have not told me what was done in pursuance of that? A.—Oh well, in pursuance of that the route was indicated on the map.

Q.—By whom? A.—I don't know.

Q.—Not in your presence? A.—No.

Q.—You left the map for that purpose? And it was returned to you? A.—Yes, the map was given to us. We got the map afterwards with a mark in red ink.

Q.—You left it with whom? A.—Oh, I cannot remember.

Q.—With Mr. Mann? A.—I don't think it was with Mr. Mann, but it was left there in the office.

Q.—Left there in pursuance of your conversation with Mr. Mann? A.—Yes, exactly. Certainly.

Q.—And you went back to the office subsequently and got it? A.—Yes.

Q.—How long was there between the two occasions? A.—It might be an hour, it was not supposed to be done with any particular degree of accuracy, but was just a general indication of what the route would be, just as we could have gone up there and followed the surveyors' stakes and seen what the route would be. That would have taken some time; we did not want to do that; we thought this would be a short cut and we took it.

Q.—Did anything else take place between yourselves and Mr. Mann then? A.—I think he invited us over to the Toronto Club.

Q.—You did not think I meant that? A.—I didn't know. You are going into questions so particularly, that I didn't know but what you might.

Q.—No, you did not think so at all? A.—Well, I don't remember anything else.

Q.—Was there anything then suggested about their having an interest? A.—Oh no.

Q.—How long afterwards did that come up? A.—About their having an interest?

Q.—Yes? A.—I never had any conversation with them about them having an interest; never the slightest.

Q.—Did you have any conversation with them about raising money? A.—Never in the world.

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Q. Did you get any money from them? A.—Never got a dollar.

Q.—They did not assist you in financing your first payment? A.—Oh well, I would not say that. They may have done that. As a matter of fact they did not do that, but I never got any money from them.

Q.—Do you think you are answering me quite fairly. Mr. Fowler? A.—I think so.

Q.—You think you are? A.—Yes.

Q.—Tell me the arrangement that was made for financing with Mackenzie and Mann? A.—I don't know it.

Q.—Did you make it? A.—I did not.

Q.—Who did? A.—Whatever arrangement was made would be made by Mr. Pope. I was not there at all.

Q.—Did he tell you what it was? A.—He said they would help us in financing the thing. This was a long time subsequent to that, you know. But I do not see Mr. Shepley, again I may say Mr. Commissioners, I don't see what this has to do with the matter.

Q.—If it was a long time subsequently I will drop it for the present because I would rather have a chronological account. You say there was no conversation or discussion or suggestion of your being assisted in making the first payment, on this occasion that you speak of? A.—No.

Q.—None of any kind? A.—None of any kind.

Q.—Has that always been the account you have given of it? A.—I don't remember of ever giving an account of it before. I haven't found anybody quite so curious as you appear to be.

Q.—You do not perhaps remember being examined in connection with the matter before? A.—Oh yes, I had forgotten that for the moment.

Q.—Now, have you told me all you can recollect that took place between you and Mr. Mann on this occasion? A.—All that I recollect at the present time. You mean with respect to this matter?

Q.—Yes? A.—I don't recall anything else regarding it now.

Q.—And you have told me all that you have now in your recollection upon the subject of that interview? A.—There might be other things, you know, which if you would intimate something to me, I might be able to

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recall, but I don't recall at the present time.

Q.—That is all you can independently recall? A.—Yes, independently, at the present time, recall. There was a good deal of conversation, of course, between us, but I do not carry for the moment, all the details of it.

Q.—Then you had up to that time the map and the course of the Northern Railway marked out upon it by the Northern Railway people? A.—Exactly.

Q.—That is what you were armed with up to this moment. What did you do next? A.—We went to Montreal and saw the President of the Canadian Pacific Railway. Told him that we wanted to buy some land in the North-West, that we had been out there and we understood they had lands in the North-West to sell, and that we would like to buy a tract. So he said well, we would have to arrange that matter with the Commissioner, that we would have to make a formal application to the Land Commissioner, Mr. Griffin, and that he would, I think he said, take a hand in the arranging of the price.

Q.—That he would "take a hand in the arranging of the price?" A.—Yes.

Q.—Is that the only threat he made? A.—Would you call that a threat?

Q.—What do you call it? A.—Well, I would not call it a threat. I would call it an intimation.

Q.—An intimation, not in the nature of a threat, but in the nature of an inducement, perhaps? A.—They wanted to sell the lands; they had them to sell.

Q.—And he was going to take a hand in making the price? A.—In arranging the price.

Q.—Making it so you would be induced to buy? A.—We were going to buy a large tract of land and we felt that, buying a large tract of land like that, there ought to be a special price made, lower than the retail price.

Q.—What was the size of the tract you then had in your mind? A.—200,000 acres.

Q.—When did you fix upon that figure in your mind? A.—Oh, I cannot tell you.

Q.—At Winnipeg? A.—No.

Q.—At Toronto? A.—I don't think we had fixed on it at Winnipeg, but I think that some time from the time we saw the people in Winnipeg, before we reached Montreal, we had

decided that we would make an application for 200,000 acres. We thought we could get friends interested and be able to carry it through.

Q.—Was that after you had left Toronto or while you were in Toronto? A.—I would not like to say which. It might have been after we left Toronto. It may have been after that—I wouldn't like to say—and it may have been before, do you see?

Q.—Before you left Toronto? A.—It may have been.

Q.—But it was not before you got to Toronto? A.—Well, I say it may have been, but I do not think it was, as a matter of fact. I cannot tell you chronologically just when that occurred. It may have been either before or after.

Q.—Then Sir Thomas Shaughnessy said he would take a hand in making the price? A.—Yes.

Q.—And you took that to be an intimation that the price would be made a price that would induce you to buy? A.—Yes, that it would be a wholesale price instead of a retail price, buying the tract we were we thought we would get a reduction from the price from what we had been told in Winnipeg. We expected to get it for less and they told us in Winnipeg it would be \$3.50 an acre and we understood that to mean that we would get a lesser price than \$3.50 on account of taking a large amount of land.

Q.—That is what you then understood? A.—That is what we then understood. That is what, at least, I understood and from subsequent conversation with Mr. Pope, that is what he understood.

Q.—Did you discuss with Sir Thomas Shaughnessy the price at which you had been informed in Winnipeg that you could buy? A.—Oh yes, I think we did. I would not say for certain about that, but I think we did. I think we told him what the price was, but I would not say.

Q.—And he told you you would have to apply in the regular form to the Commissioner or through the Commissioner? A.—Oh yes, he said he would not sell the lands at all.

Q.—That his function in the transaction would be to take a hand in the fixing of the price? A.—The fixing of the price.

Q.—Is that all you can remember of that interview? A.—Yes. You see

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we represented to Sir Thomas that we wanted to buy a very large tract, 200,000 acres, and that we thought we ought not to have to pay what a man could buy a section for, that we ought not to pay at the same rate. That seemed to appeal to him as reasonable and he said "You make your selection of these lands and when it comes to the question of price" he says, "I will take a hand." That is all.

Q.—Is that all you recollect of that interview? A.—Yes, I don't recall anything more now. There may have been more but I don't recall it.

Q.—Your memory does not assist you to anything further independently? A.—Not independently, no.

Q.—Then what did you do next? A.—We made the formal application.

Q.—Did you go to Winnipeg or write? A.—That was written. I don't think that my name appeared in that. I think that was written by Mr. Pope. It may have been written by me and signed by him; I would not be certain. Anyway we did make a formal application for 200,000 acres of land.

Q.—In the name of one or other of you or both? A.—In the name of one or other or both of us.

Q.—Not adding any other name? A.—I don't think any other name was added. I don't think so. Oh, I am quite sure, no other name would be added, because you see we were doing the whole thing, we were getting up the whole business.

Q.—Then, up to the time you were in Montreal, was anybody else behind you besides Mr. Bennett and Mr. Le-furgey? A.—Well, when we were in Toronto, you know, Mr. Pope had a friend by the name of Peuchen—Mr. Arthur G. Peuchen, I think it is—and he spoke to him, that is all. There was no other person. Hold on now, when we were on the way out we met a man by the name of Lester, an Englishman, and we were talking with him and he had a very strong opinion.

Q.—When you say, you were on the way out? A.—On the way to Toronto, on the way to Montreal, on the way east. We were talking with a man by the name of Lester; and I think Mr. Peuchen mentioned the name of Mr. Pellatt, now I believe Sir Henry Pellatt, then plain Mr. Pellatt, I think. But there was nothing definite with respect to—

Q.—You did not, or did you, interview any of these gentlemen? A.—Well, I say we saw Mr. Lester, you

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know, on the way east. I didn't see Mr. Pellatt at all and I don't know that he was ever spoken to; certainly not by either Mr. Pope or myself, as far as I know. Mr. Peuchen claimed to be a very intimate friend of his.

Q.—Neither of these gentlemen, in the end, came in at all? A.—No.

Q.—But Mr. Peuchen did? A.—Yes.

Q.—That was the only addition to your force up to the time you were in Montreal, Mr. Peuchen? A.—Yes.

Q.—Then what did you do after your interview with Sir Thomas Shaughnessy in Montreal; you say you made an application and you say that was made in the name either of yourself or Mr. Pope or the two of you, no other name appearing upon it? A.—No. This was all in the month of October, early in the month of October; I would not like to say just what time in the month, but I think it was before the middle. I think it was, you know. Of course the date of that application would tell.

Q.—What reply did you get to your application? A.—It was quite a while before we got any reply at all.

Q.—When you say "quite a while," what do you mean, a month? A.—No, it was less than a month, but it was two or three weeks at least before I heard anything. Then the reply did not come to me personally; it came to Mr. Pope.

Q.—And you heard about it? A.—Yes.

Q.—Just jot down that as a thing to be specifically looked for, the reply to your application to the C.P.R. It would probably be in November? A.—I think so, you know; I think it would be in November, but remember I won't tie myself up to the date, you know.

Q.—I would not expect you to. What was the reply, the nature of it? A.—Well, the reply was to the effect that they had raised the price of the lands in that section, and that Mr. Griffin said he would not give us the lands for the price, the \$3.50, that they were \$5.

Q.—That the lands were \$5 an acre? A.—Yes.

Q.—That was the reply? A.—Yes.

Q.—Well, that was rather disconcerting, was it not? A.—That was what you would call a cold touch, yes.

Q.—I would not have called it a cold touch; disconcerting is a word

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that suits me better than that? A.—Well, of course you don't use slang.

Q.—Will you tell me what you did next or in consequence of that? A.—Well, we didn't lie down, you know. We then went and interviewed, I think, the President again.

Q.—Would that be in November? A.—Yes, I fancy it was. It was immediately following the receipt of this letter, within a few days, you know. I think that Mr. Pope got the letter and that he then communicated with me and I came up to Montreal, joined him in Montreal and we went and saw Mr. Shaughnessy or Sir Thomas Shaughnessy again.

Q.—Tell us about that interview? A.—Well, we told him we had made application and that, though we had made the application when the lands were at this price, yet our application was declined; that they had been selling these lands for this price and for a less price and we didn't see any reason why we should be turned down. They had been selling the lands to Americans in large blocks at a low price.

Q.—These are things you were saying to him? A.—These are things we said to Sir Thomas Shaughnessy. And that we were willing to pay the price that the lands were selling at at the time we made our application. Sir Thomas said that in a short time Mr. Griffin would be down to Montreal and that he would notify us when he came, so that we could meet Mr. Griffin with him and the matter would then be discussed.

Q.—Was that satisfactory? A.—Had to be.

Q.—Then what next? A.—We went home again and afterwards we did meet Mr. Griffin.

Q.—And when would that be, about; still in the same month of November? A.—It is pretty hard for me to tell you as to the month it was in. It would be, I think, before the first of the year, at any rate Mr. Griffin was there and Mr. Dennis.

Q.—Who was Mr. Dennis? A.—An official of the C.P.R. stationed at Calgary in the West.

Q.—Had he anything to do with their lands? A.—And Mr. William White was there, the Vice-President.

Q.—Has Mr. Dennis anything to do with their lands? A.—Oh yes, he has to do with the lands. He has to do with the irrigation out there; with the irrigation lands; I don't know whether he has generally or

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not; I think with the timber lands anyway he had.

Q.—How was the appointment arranged, by correspondence? A.—Well, Sir Thomas Shaughnessy had said that when Mr. Griffin came out he would let us know, and I got word from Mr. Pope to come up. I did not ask him how he knew, but I supposed Sir Thomas had communicated with him, likely, and told him Mr. Griffin was to be there at a certain time.

Q.—That sounds reasonable. Then you had this meeting; was anybody present except the ones you have named? A.—Sir Thomas Shaughnessy, Mr. William White, Mr. Dennis, Mr. Griffin, Mr. Pope and myself. I think that is all. That is all I recall.

Q.—What took place at that interview? A.—It was very brief.

Q.—Then you can easily tell me? A.—Yes, I can very easily tell you. If you have been in the President's office there you know that they have large maps on the wall. We had been waiting some little time before Sir Thomas was at liberty and when he was, we walked into the office and these gentlemen were there. Sir Thomas pulled down the map from the wall and asked me to indicate where these lands were that we wanted, or about where these lands were. I walked up to the map and took the pointer and indicated to him about the block, and he said: "Mr. Griffin, these gentlemen made application for these lands in October; what was the price of these lands when they made the application?" Mr. Griffin said—I am giving you the conversation as nearly as I can recall it, I would not say that it was in the exact words—but he said, these lands were \$3.50 an acre, pointing them out. He said, "What do you think would be a fair price then, Mr. Griffin?" And he said, "\$3.50 an acre." He turned to us and he said, "Gentlemen, are you satisfied?" And we said "Yes." Then I spoke of the terms. I said, "We expect to sell these lands to farmers; you sell to farmers and you give them 10 payments; now your terms to other people, to speculators, if you will, are six payments. We have got to come in competition in the selling of these lands; we would like to have you give us ten payments instead of six payments, with 6 per cent. deferred interest." He said,

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"I cannot do it." He says, "We won't change our terms at all; you are getting these lands at the price they were at that time, and" he says, "you will have to make the six payments, I will not change the terms at all." That was all. And so far as I recall, that is the only option we ever had.

Q.—So far as you recall there never was anything reduced to writing? A.—No, I don't think so. There may have been, you know. I cannot remember that, some way; I don't know why I cannot recall it, but when I made the first payment on these lands, of course I got a receipt for the money and it may be then there was an agreement, but really I cannot recall.

Q.—It would seem altogether likely that there was an agreement? A.—Yes, it would seem likely that there was an agreement when the money was paid, but I cannot—I don't seem able to recall it.

Q.—That was the end of that conversation, you have told us all you can remember with regard to that? You were to get the lands at \$3.50 and on the ordinary terms? A.—On the regular terms, yes.

Q.—Not on the retail terms? A.—No.

Q.—Then what did you do next? A.—Well then there was the question of selecting the lands. You see they had a good deal of land in that section—district.

Q.—Can you give us, approximately, what the area was over which you had the right of selecting? A.—Oh well, there was a large area there; there was over 300,000 acres.

Q.—But of which you were to be at liberty to select 200,000? A.—Yes, that was the way it was at first. It was afterwards changed. Mr. Griffin got on to the route of the Canadian Northern and he found that, or supposed that was going to increase the value of the lands, of course, and he said they would take out of this—something in excess, I think, of 300,000 acres—they would make out, now I don't recall how much, a certain percentage, they would select these sections, you see and retain certain sections.

Q.—But still leaving a larger area for your selection than 200,000 acres? A.—Yes, there was a balance.

Q.—That is he withdrew from your option a portion of the area that it

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covered? A.—Yes, that it was intended to cover at first.

Q.—Leaving you still with an acreage in excess of the acreage you were entitled to select? A.—Yes, from which we might select. Of course we could travel outside of that, further north if we wanted to; we were really not confined, you know, but within the district, do you see, where we wanted to select our lands there was about, well, I would think, nearly 350,000 just speaking roughly. And he would withdraw a portion of that. Then the Barr colony came out of it, too.

Q.—You, perhaps, had some correspondence in connection with that withdrawal? A.—No, I think that all took place in Winnipeg in an interview with Mr. Griffin.

Q.—Before or after you had selected? A.—Well, I couldn't tell you, it may have been during the process of selection. It took some time for us to make the selection.

Q.—Could you, if you had a little time to reflect, recall whether it was before or after you had selected or in the process of selection? A.—Well I don't know if I could recall it or not. However, I shall use my efforts to recall and if I do I shall let you know.

Q.—You used an expression a moment ago, that Mr. Griffin had "got on to the route of the Canadian Northern." What did you mean by that? A.—Well, he had I suppose learned which way.

Q.—Learned what you had found out in Toronto? A.—I suppose so.

Q.—I gather from that, that you and Mr. Pope had not disclosed your knowledge of that route when you were bargaining with Sir Thomas Shaughnessy and Mr. Griffin? Would that be right? A.—You are not very far from the truth, now.

Q.—It is absolutely right, is it not? A.—I think so. Of course we didn't feel under any obligation to disclose it.

Q.—I am not suggesting that you did? A.—No.

Q.—Then did Mr. Griffin also ascertain or did he suspect that you had had this information at the time that he was dealing with you? A.—I don't know anything about that. He didn't make that intimation.

Q.—He did not make that a factor in the withdrawal of this area? A.—No, not at all. Mr. Griffin said, "Now the Canadian Northern is go-

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ing up there right through these lands and it is going to make them very valuable and" he said, "I think it is my duty to retain a certain portion of those lands for the Canadian Pacific Company and," he said, you know he took them out of the block. You see we really only had 200,000 acres, that is all we had made application for and all they had agreed to give us, 200,000 acres, but he took those out before we made the selection in order that they should have fair play with us in the selection of their lands. I don't think anything turned on the question of the goodness of the soil, the character of the soil; I think it was principally with respect to its proximity to the road, you know.

Q.—I think you now answer what I asked you a moment ago? A.—Whether it was before or after?

Q.—Yes? A.—Yes, because you know I could not recall the time, but now that I recall the circumstance, do you see, it shows me that it was before we made the selection, I think, except that we may have indicated and probably did, indicate to him, some of the lands we had already decided upon, and he may have said, "Well now, you will have to give up some of those because I think the company should have a proportion of those."

Q.—Come back now into the current of the narrative again. After your interview with Sir Thomas Shaughnessy and the others in Montreal, your next step naturally would be, selecting the lands. When did you go West with that object in view? A. Oh, pretty nearly immediately.

Q.—That would be before the beginning of the year 1904? A.—Yes, before the year 1903, I think.

Q.—1903, I meant. That would be probably in December? A.—Well, it might have been earlier.

Q.—It might have been in November? A.—Yes, it might still have been in November.

Q.—Who went? A.—Mr. Pope and I.

Q.—What was the course you took in making these selections? A.—We got the Government reports and we got some information from the Canadian Pacific reports; we got some information from individuals, men who knew the country, and upon that we made up our selection.

Q.—You did not go upon the lands themselves? A.—We did not, no. We intended to go upon the lands when we left the east, but when we

got there it was so very cold and late in the season that we thought we would rather do it at long range.

Q.—Will you tell me, besides the Government and C. P. R. reports, what other information you had access to or got? A.—There were several persons there, I don't recall their names now, who knew the country to some extent, and we had these people in and went over the lands with them. That was all we did.

Q.—When you say people, people of what sort, people who had travelled over the land? A.—Yes, people who had travelled over the lands, men who were conversant with the country. We wanted to get a general idea of whether the lands were very much broken and that sort of thing. These men, I don't think, had examined the soil at all, but our idea was to get lands as smooth as possible, you see.

Q.—How long did it take you to make the selection? A.—Oh, we were there some weeks, I don't know how long.

Q.—When you say some weeks, do you mean as much as a couple of months? A.—Oh no, we were not there that long.

Q.—Six, four or three weeks, about how long? A.—Well, I think we were there three weeks at least, I cannot say. I know we came away before Christmas anyhow.

Q.—You came away before Christmas? A.—I think we did.

Q.—So it was within a small compass? A.—Oh yes, within a small compass.

Q.—What did you do by way of communicating your selections to the C. P. R., did you mark a map, or what? A.—I think that was the way it was done.

Q.—You marked a map with the lands that you had selected? A.—Yes, I think so.

Q.—And how much did you select? A.—We selected a couple of hundred thousand acres, about that.

Q.—Was it 200,800 acres? A.—It might have been.

Q.—I suppose you would recognize it if you saw it in a statement you had rendered? A.—Oh, I daresay.

Q.—That is what I have seen as a statement rendered to your associates? A.—Yes, I don't think it was exactly 200,000 acres.

Q.—200,800 is the figure that we have among the papers here? A.—Well, I suppose that would be correct. There was a difference. After we had

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selected, the C. P. R. had sold some lands out of these; there was a change backward and forward; they had sold some of these sections that we had selected after we had selected them and I suppose before they had informed their agents in the locality, do you see, that these lands were sold and were held by us, and in some instances, I think, they gave us other sections for them. They said here we will give you this section, and of course we were not making any fuss about a section or two.

Q.—In the result you acquired 200,800 acres? A.—Along in that neighborhood.

Q.—Then were there certain lands which you had information about in the course of compiling this information, that you did not select? A.—Oh yes, there was a great deal of country we did not select.

Q.—I have reference now—so that you may direct your attention to that—to the block of 17,000 acres? A.—But don't you see, Mr. Shepley, we could only take 200,000 acres under this option; we took out that 200,000 acres and there was a great deal of land left still belonging to the C. P. R. There was a matter of 17,000 some odd acres that we did not take.

Q.—What I am asking you about is, whether or not that 17,000 acres was land as to which you compiled information while you were selecting? A.—Oh yes, we compiled information with respect to the whole of the territory, through there, as far as we could. It was not culls, as has been already said here.

Q.—The expression that was used, I think by you or Mr. Pope was "lands that were cut out from the selection?" A.—Yes, cut out.

Q.—"As being inferior?" A.—I don't know that it was inferior. It was land that—I think we were more particular with respect to location than quality—I think location was our main point.

Q.—I would include that in the word inferior; inferior in location as well as quality? A.—Yes, I would not like to say—you know after all, Mr. Shepley, these surveyor's reports that we were going on, are not absolutely accurate.

Q.—Of course not, but exercising the best judgmentt you had at the time you thought the 200,800 that you selected were the pick of what you had information about? A.—After they had taken out their amount, yes. Oh

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yes; of course we thought that was the best land. More particularly with respect to location than quality of soil.

Q.—And in that sense perhaps it is not quite accurate but it comes pretty near to it, if we say you rejected the 17,000 acres? A.—Yes, but you know the stone that is rejected sometimes becomes the chief of the corner. So it might be they were—I would not like to say they were not—even superior to the rest of it.

Q.—We will hear perhaps a little more about that as we go on? A.—All right, I am very glad to get any information I can.

Q.—Was this block of 17,000 acres adjacent to or contiguous to the 200,000 you had selected? A.—Oh yes.

Q.—When you had made your selection did you enter into a contract with the C. P. R.? A.—Yes.

Q.—And where is that? A.—Well, I don't know. I have no knowledge as to the contract—as to any written contract. You see we did not make a payment until later.

Q.—The thing was ripe then for you and the C. P. R. to become bound to each other by a contract? A.—Yes.

Q.—You see that, of course? A.—Yes.

Q.—Then it would seem again reasonable that one would expect a contract to be made? A.—Yes.

Q.—What do you say to that? Do you say there was or was not or that you do not recollect? A.—I do not recall that there was at that time any written contract at all. There may have been a contract later, but I don't think that at that time when we indicated the selection.

Q.—Will you make a jotting of that, please; "Contract with C. P. R. after selection." And at the same time say, "Any maps showing the land selected." Well, then you were now ready to commence to put your lands upon the market? A.—Yes, we were ready now to sell.

Q.—I do not want to delay you or take up the time of the Commission unnecessarily. I will ask you to go at once to the negotiations which resulted finally in your disposing of your option? A.—Well, we were anxious to sell the lands, of course.

Q.—When was your first payment due, do you remember? A.—Well, there was a question as to that, do you see, as to our having to pay a certain amount, \$20,000 I think. I think we were notified in February

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—some time in February, it strikes me—that this money would have to be paid as a sort of guarantee of good faith that we would carry out.

Q.—A sort of deposit upon the contract? A.—Yes, a deposit upon the contract. We had understood, you know, that we did not have to pay anything until June, but we were called upon I think in February, sometime, to pay \$20,000.

Q.—When you were called upon to pay the \$20,000 had your syndicate extended any further than you have told me? That is were there more people in it? A.—Yes.

Q.—Who were in it then? A.—Well, there were several persons; some friends of mine, I had taken in, and I think some friends of Mr. Pope.

Q.—Who were they? A.—There was a gentleman of the name of Parker.

Q.—Was he one of your friends? A.—Yes.

Q.—Who is he? A.—He is a gentleman in the City of St. John.

Q.—Has he a first name? A.—Yes, his name is George, a very good first name.

Q.—I have always thought so? A.—So have I.

Q.—A good name to till land with? A.—Supposed to be a husbandman, yes. There was a Mr. McLeod.

Q.—Who is he? A.—A gentleman who lives in my town, a friend of mine, Mr. Samuel A. McLeod. There was a gentleman of the name of Parlee.

Q.—Who was he? A.—A gentleman who lived in my town as well, and a partner of mine. There was Mr. Pugsley, a friend of mine who lived in my town.

Q.—Which Mr. Pugsley is that? A.—Not the Attorney-General, a relative of his, Mr. A. B. Pugsley. Then I understood with Mr. Pope that there was some friend of Mr. Pope's also taken into the syndicate which made the membership up to ten.

Q.—What was Mr. Pope's friend's name? A.—I don't know.

Q.—You never did know, or have forgotten? A.—No, I supposed it was going to be a man of the name of French, but I did not know and I don't know that I ever paid any particular attention to that at the time.

Q.—It was supposed then to be a syndicate of ten? A.—Supposed to be a syndicate of ten.

Q.—When had these alterations in the membership of the syndicate taken place? A.—There never was any alteration, don't you see, in the syndi-

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cate, because these gentlemen were in as soon as there was a syndicate. When we four were talking there was no formation of a syndicate at that time; not at all.

Q.—You thought the number ten may have been mentioned then? A.—Well, it may have been, I would not say it was not, you see. Then we came down to Toronto and Mr. Peuchen was taken in.

Q.—That made five? A.—And Mr. Lester had been spoken to, and Mr. Lester could come in, if he wished. We were to see his son, I think, in Montreal. Mr. Lester was an English gentleman but had a son in Montreal. He had business connections in Canada and we thought he would be a good man to have in, and he was seen, the son was seen, but the father had evidently decided not to go in, because he did not come in. Each of us put up \$200 as a preliminary.

Q.—Each of the five? A.—Each of the ten.

Q.—Then at the time the preliminary expenses were put up, you must have had these other gentlemen in your mind? A.—Why, certainly. They gave their money, they paid their money.

Q.—Then when were they brought in? A.—They were brought in during the time that the negotiations for the purchase of the 200,000 acres was going on.

Q.—Before you had come to Toronto? A.—Oh no.

Q.—After you had gone east? A.—Certainly, after we had gone east. I had not seen them until after we had gone east. You see here was the fact: the land was being disposed of very rapidly in the west and I supposed and Mr. Pope supposed as well that we would have no difficulty if we got an option on this land in disposing of it. Now there had been some preliminary expense in connection with that. I was anxious that my friends should share, if there was going to be any money made with respect to this matter, and I asked them to come in and join the syndicate. Which they did. They were not men that were able to pay for this tract of land, this whole tract of land. Neither was Mr. Pope nor myself. But we did not expect to have to pay for the whole of this land; we expected to dispose of it before we would have to pay for it.

Q.—I quite appreciate that? A.—Exactly.

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Q.—And I am not criticising the fact that you had preliminary expenses, not venturing to criticise it? A.—No, I hope not.

Q.—I want to get who the people were who put the money up and you have told me? A.—Yes, exactly, these are the gentlemen who put up the money.

Q.—These gentlemen who put up \$200 each for the preliminary expenses? A.—We raised \$2,000.

Q.—And that constituted a fund that paid your expenses in going about and looking after the matter? A.—That is what it was intended to pay.

Q.—I am not offering any criticism about that? A.—It is not a matter that is subject to criticism; it is a perfectly fair and legitimate business transaction.

Q.—Whether it is or not, I am not offering it. Then, we had got to the point at which I was asking you to tell me about the negotiations you entered into which resulted in disposing of the property. A.—Yes.

Q.—And you had told me something about the first payment being called for in February, when you did not expect it. A.—Yes, we got the intimation in February. I think they asked us to put up the payment in March. \$20,000, I think it was. That meant a considerable amount of money.

Q.—It meant \$2,000 a piece? A.—Yes, \$2,000 a piece for each of the ten. And we did get that put up, but we didn't put it up in March, I don't think. I think it was put up later. I don't think it was put up until, I think it was in April.

Q.—Tell me how you raised the \$20,000? A.—Three of the members of the syndicate put up their money.

Q.—What three? A.—Mr. Peuchen—no, Mr. Peuchen did not at that time; I was wrong; we got that financed for him. But Mr. Lefurgey put up his \$2,000 and Mr. Bennett his \$2,000 and we got Mr. Peuchen's money financed for him. He was away, I think at the time and it was either put up or get out of the syndicate and, therefore, we financed it for him.

Q.—You wanted \$16,000 in addition to the \$4,000 you got from the two.

Q.—Then how did you finance that \$16,000? A.—Again, I want to say, Mr. Commissioners, that this is carrying this investigation very far,

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when you ask my private business, which can possibly have no bearing, absolutely none upon this case.

Q.—You see, Mr. Fowler, you are too acute a man not to understand that your judgment as to its relevancy cannot be substituted for the judgment of the Commissioners? A.—I quite know that, and I am acute enough also to know why this information is sought for. I am acute enough also to know that.

Q.—Now, having protested, will you go on and tell me how you financed the \$16,000? A.—If the Court rules that I must, I will.

JUDGE MAC TAVISH: I think the question should be answered. A.—Well, Mr. Pope, as I understand it, got Messrs. Mackenzie and Mann to endorse our note.

MR. SHEPLEY: Whose note? A.—Mr. Pope's and mine.

Q.—The names of the other gentleman, your friends and his, did not appear? A.—Did not appear, no, on that note.

Q.—Have those names appeared in any paper or document? A.—Well, you see there wasn't any name to appear. Nobody's name appeared. We didn't sign any document. We had no document signed among us.

Q.—Then you have answered my question; there was no document signed among you or any two or more of you? A.—Of the syndicate, not that I recall.

Q.—Make a note of that, please, and see if you can find anything of that kind? A.—There certainly was never one signed by all of us and I don't recall at that moment any document, but there may be one. You say "document signed by members of syndicate."

Q.—Yes, or any of them; not by all members necessarily, by any of them. A.—"Or any of them."

Q.—For instance, any declaration of trust by yourself and Mr. Pope in respect of the matter; anything of that kind. A.—Yes. I don't think we ever made any, Mr. Shepley. I don't think so. It may not have been done in a very businesslike way, perhaps.

Q.—Then this note was given and endorsed as you say—did you tell me by whom? A.—Mackenzie and Mann.

Q.—And what was the arrangement you made with Mackenzie and Mann? A.—I didn't make any arrangement at all with Mackenzie and Mann.

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Q.—What arrangement was made with them? A.—I couldn't say as to that. I understood that if we had to take the whole property, that is, if we had to pay for the whole of the property, they were to finance it for us and to take an interest, take a portion of our interest. That is they were to finance these seven interests.

Q.—Finance these seven interests. A.—The seven interests.

Q.—Other than Bennett's Lefurgey's and Peuchen's? A.—Yes.

Q.—Peuchen was expected to stand upon his own legs? A.—Yes, we did finance his first payment.

Q.—But that was because he happened to be away? A.—Because he was away.

Q.—But you did not expect anything else than that he would contribute his proportion? A.—Exactly. We expected he would.

Q.—But Mackenzie and Mann would finance for the other seven members of the syndicate? A.—Yes. Of course I did not make any arrangement. I never had any discussion with them about it, but I understood that was the agreement. We were to hold these lands, you see, and sell them, retail, that is what was explained to me, "we will hold these lands and retail them and they will carry us through for this seven-tenths."

Q.—What interest were they to have for doing that? A.—I understood that they were to have half of the interest.

Q.—Half the seven-tenths? A.—Yes.

Q.—That is what you were informed? A.—Yes. Of course that was not carried out.

Q.—Mr. Pope will give us the information with regard to that? A.—Oh yes, he can give you all of that. He knows and I do not. I am only giving you from second hand.

Q.—What was carried out was the endorsement of your note? A.—Yes. They never paid it, you know. We paid it.

Q.—What came next? A.—I may say now that Messrs. Mackenzie and Mann never paid any money on account of us. They simply endorsed our note, that was all they ever did. We paid the note ourselves. Then what were you going to say?

Q.—I was asking you what next? I am now endeavoring to pursue the inquiry into your dealings with the people with whom you dealt in the end? A.—Yes, well, we had asked a

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firm or had had some talk with a firm in Winnipeg about trying to sell the land; a real estate firm; and they had been unable to sell, when some time, I don't know when, I was asked to come down to Toronto, that there was a real estate concern here, wanting to negotiate for our lands.

Q.—Who asked you to come? A.—Oh, I cannot tell you. I may have got word from Mr. Pope to come. I wouldn't say who it was. It may have been from some other member of the syndicate. At any rate I came here to Toronto—I don't recall the circumstance of coming, I only know I was here, and I suppose I was asked to come.

Q.—Who were here with you of your syndicate? A.—I think Mr. Pope was here and myself.

Q.—And Mr. Lefurgey? A.—Mr. Lefurgey was here at one time, yes, and Mr. Peuchen was here.

Q.—He lives here? A.—Yes, he lives here, but he was present at the negotiation. Whether Mr. Bennett was there or not, I do not know.

Q.—Then you came here, as you supposed, on an invitation to meet a possible purchaser? A.—That is as near as I could remember now, how I happened to come.

Q.—That sounds quite reasonable, Mr. Fowler. Then tell me about the meeting, please? A.—Now, do you know, I cannot tell you very much about it. I know Mr. Curry was there, and there was another gentleman whose name I do not recall, but it seems to me it was Mr. Dale or some such name as that.

Q.—Yes? A.—Is that the name?

Q.—Mr. Wilson has said so? A.—I think that was the name, but I don't remember having seen the gentleman since, and I don't recall much about him. There was some discussion about selling these lands.

Q.—Did you ascertain at that time what sort of party it was that you were negotiating with? A.—What sort?

Q.—Yes, whether a strong financial party? A.—They were very gentlemanly looking men. I don't know that I—

Q.—What was the negotiation about? What was the proposition that was being discussed? A.—Well, we wanted a dollar an acre advance on the price we had paid for the lands; we wanted returned to us the money we had already paid to the C.P.R., which was, I think, about \$60,000.

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We wanted that returned. Yes, we had paid \$60,000 on the first payment.

Q.—Then a second payment must have become due? A.—Oh, there were three payments. I think those three payments were due before we ever had any talk with those people, and were paid.

Q.—The whole three? A.—Yes, I think they were.

Q.—You mean up to \$60,000? A.—Yes. When I say payments, I mean the three instalments of the first payment.

Q.—The three instalments of the first payment of \$60,000? A.—The whole of the payment would be over \$100,000, but we had paid \$60,000 in three instalments as I recall, of \$20,000 each.

Q.—You had \$56,000 still to pay? A.—Yes.

Q.—That was not due? A.—No.

Q.—But the \$60,000 that had fallen due you had paid? A.—Yes.

Q.—At that time there must have been a contract fixing the dates when the payments would fall due and the amounts of them? A.—Well, I would think so, but I don't know why it is, I cannot recall about that contract. If I could, of course I would tell you, there isn't any reason why I should not disclose it, not the slightest, because we prove the contents of it.

Q.—I dare say as we get on a good many things will come to your recollection that will enable you to help me a great deal if you will earnestly try, and I am sure you will? A.—Well, I don't think you should know anything at all about it, if you want me to be perfectly frank.

Q.—I understand you are yielding, with your customary grace, to the ruling of the Commissioners? A.—And with exceeding regret.

Q.—But still, gracefully? A.—Well. I always try to do a thing as gracefully as I can.

Q.—Then let us drop that behind us, if you will, and let us make progress, understanding that the point has been ruled upon. With respect to the other \$40,000 that you had paid, was that financed in the same way? A.—Yes, exactly. It had all been done by notes.

Q.—Had Mr. Bennett, Mr. Lefurgey and Mr. Peuchen put up their shares? A.—I don't know how they did it. As far as I know they put up their money. I don't know whether they made notes or what they did.

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Q.—At all events they were no parties to your arrangement? A.—Oh no, they were not parties to this other. I was acting on behalf of my friends, do you see?

(Adjourned to two o'clock.)

AFTERNOON SESSION.

Resumed at 2 p.m., October 12th, 1906.

Examination of George W. Fowler, M.P., continued:

MR. SHEPLEY: You were telling us about your visit to Toronto and your meeting with some gentlemen in connection with the New Ontario Farm and Town Sites Syndicate, and you have told us that you recollected Mr. Curry, and you recollected a gentleman whom you thought was Mr. Dale? A.—Yes, I just saw him the once, and I do not remember ever seeing him since, but I think that was the name.

Q.—That you think Mr. Pope was present at all events on one of the occasions you mean and Mr. Lefurgey? A.—Yes.

Q.—Give us the progress of the negotiations as they went on, what was the proposition that was being put at that time? A.—Well, our proposition as I remember it was that we were to have an advance of \$1 an acre over the price we had agreed to pay, and a return of the moneys we had paid to the C.P.R., and then I think they were discussing about the matter along those lines, I do not recall very much the discussion.

Q.—Did you form an idea then during these negotiations as to the capability of the syndicate you were dealing with, the Town Sites Syndicate, to deal with that proposition? A.—My impression is now that it did not look as though they were going to be able to carry the thing out, that is my impression as nearly as I can remember.

Q.—You were not impressed very much with their strength? A.—No, I don't know that I was.

Q.—You wanted of course to deal with a concern of sufficient financial strength to make the thing a perfect success? A.—Yes.

Q.—Then what was the next stage? A.—Well, it seems to me that later we met, whether it was during that visit to Toronto or at a later time

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I cannot recall, but I think later we met Mr. Wilson and Mr. Foster, I think Mr. Foster—did I name Mr. Foster as being present before?

Q.—Not yet? A.—I think he was present at that Town Sites meeting, in fact I know he was now.

Q.—Do you know how he came to be there? A.—No.

Q.—He was not there at your instance? A.—No, I had never thought of them in connection, that is the Union Trust people or any one in connection with the matter at all. What led up to this meeting was outside me altogether, I had not anything to do with arranging for this meeting at all.

Q.—You were brought into contact perhaps at a second meeting, that is not very material, with Mr. Wilson and Mr. Foster? A.—Yes.

Q.—And did matters commence to move? A.—Matters began to assume definite shape then.

Q.—Go on and tell us what shape the negotiations— A.—I do not remember all the discussion, but I remember we discussed the question of the sale of the property to them, and as to the terms, I do not think there was ever any question about the advance, you see, about the \$1 an acre; we simply would not do any better, that was all; that was our best offer and we felt that we could in some way swing the thing through, at any rate we were going to try, and unless we got out of it we felt we were not getting enough. It was nearly then six or seven months, and property was constantly advancing, and so we were perfectly firm on that point, and I do not recall that they tried to induce us to take a lesser sum, but what we did discuss was whether we were to have interest on deferred payments or not, and then the question as to stock in the new company that was to be formed to take this over. I understand that the Town Sites people were out of this entirely and did not know anything about any arrangement that was made with them, between the new company and the old Town Sites Company, did not know there was any arrangement, and do not know yet.

Q.—At all events you did not consider you were dealing at that stage with the Town Sites people at all? A.—Not at all.

Q.—You were dealing directly? A.—With these individuals, a certain

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syndicate as I understood it, that there was a certain syndicate.

Q.—You understood who they were—there was Mr. Wilson, Mr. Foster and who else? A.—I don't know; I have seen in the evidence where Mr. McGillivray's name was mentioned; but I do not recall him at all in the transaction.

Q.—You were dealing directly with Wilson? A.—I think they were the only ones I saw, Foster and Wilson; mind you I would not say Mr. McGillivray was not there. When I saw that evidence I tried to recall whether I remembered him being there or not and I could not.

Q.—You were to get an advance of \$1, and then there was a discussion about interest upon the deferred payments? A.—Yes, and also as to the question of stock.

Q.—And how long were you arranging it? A.—I do not remember.

Q.—Were you in Toronto for some days? A.—I cannot tell you that, Mr. Shepley, but I would fancy we were here more than one day but I would not swear positively.

Q.—Did the thing assume its final form so far as you were concerned on that day, did it reach a finality—there was a final form later, but did it reach a finality as between you and Messrs. Foster and Wilson? A.—I cannot say as to that, I could not tell you just whether we did do that in one day or whether we were longer, but I think we were more than one day, that is my impression, but it is merely an impression, whether it got—it seems to me it could not have, because I think there were draft agreements—Oh I think the negotiation must have covered some length of time.

Q.—One would think that was reasonable too? A.—I think it must have covered some length of time, because I remember a draft agreement being submitted to me and looking it over and making some corrections in it, I think that was sent down to me at my home.

Q.—That is perhaps the document Mr. Curry handed to me this morning, do you remember whether the paper itself was passing between you and Mr. Curry or between you and some one else? A.—I fancy that probably Mr. Curry would prepare the draft and send it to me.

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Q.—For whom did you understand Mr. Curry to be acting, for the Town Sites? A.—He was originally, but whether he acted afterwards—

Q.—You have told me you did not think you were dealing with the Town Sites Syndicate at all? A.—Latterly, no.

Q.—And you don't think you ever did have a bargain with them, perhaps? A.—I will tell you now the impression I have was that after some negotiations with these gentlemen, Mr. Curry and Mr. Dale and some others that it appears to me saw they were not able to carry the thing out, and whether we had a draft agreement with them or whether there was an arrangement come at there was certainly a statement made as to what we would do, and there may have been a draft agreement submitted to me from them before a final arrangement was made with the Great West; I think these negotiations extended over some length of time.

Q.—As to what you were dealing with, Messrs. Foster and Wilson, were you dealing with your whole proposition? A.—There was no question of our whole proposition at all, we gave them a schedule of the lands, the particular lands of the section that we were selling them, we were not insisting on giving them all the lands.

Q.—Did they suppose you were? A.—I do not know what they supposed. I never told them so.

Q.—Did you tell them you were keeping any? A.—No, nor did not tell them we were giving them all either.

Q.—And you were speaking of the proposition which you had been financing, and which you wanted to swing? A.—Yes, and it did not necessarily follow we wanted to sell the whole of it.

Q.—You were saying at all events you would have an advance of \$1? A.—\$1 an acre on the land we sold, we were not actually giving a lump sum to the C.P.R., but we were paying at the rate of so much per acre, \$3.50 an acre, we were not making a contract for a lump sum, but for so much an acre, and we submitted a schedule of lands when we made the final arrangement. I do not know what was done—I do not remember all the other—and we submitted a schedule and said, "Here are the lands you will take."

Q.—How did you select those? A.—You mean those we retained?

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Q.—Well, either those you retained or those you gave? A.—Just from the map, scattered them through the district.

Q.—And you did not say anything to think that would lead them to suppose you were retaining any? A.—No, I don't think we did.

Q.—Did you think at the time that they understood they were getting all you had selected? A.—I don't know what they thought, I never asked them with respect to that.

Q.—What did you think? A.—I did not think anything about it, I was prepared to tell them if they asked me with respect to the matter but they did not ask any question, and I told them—I gave them good value for the money they paid.

Q.—That is not exactly what I am asking you, I am asking you whether you supposed that they believed themselves to be dealing with the whole selection you had made? A.—I did not have any supposition upon the matter at all.

Q.—And it did not enter your mind to think about it? A.—I neither thought nor cared.

Q.—I am not concerned with whether you cared? A.—I say I never cared with respect to them, I was selling them so much land, I was prepared to give them the different sections of land at the price, and a price at which they could make a lot of money, and if I had been—

Q.—That is not our concern, what I am trying to find out is what passed in your mind with regard to the retention by you of the portion of the land? A.—With respect to what they may have thought or not thought I had no particular thing in my mind, I proposed to retain a certain amount of the land.

Q.—Did not say so to them? A.—No.

Q.—And you had not at any time during the negotiations indicated to them that they were not given all that you had selected? A.—Why no, I did not.

Q.—Did you intend them to suppose they were getting it all? A.—I did not intend them to suppose, I had no intention about the matter at all, I did not care a continental as far as I was concerned: I was giving them this much land described, specified.

Q.—Did you intend them to suppose they were getting the whole of the

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land you had selected? A.—I had no intention with respect to the matter.

Q.—Had you an intention that they should suppose that or an intention they should understand they were not getting the whole of the land you had selected? A.—My intention was I did not care what they supposed or what they did not suppose with respect to the matter.

Q.—That is not what I ask? A.—That is my answer, and I submit it is a fair answer.

Q.—Did you intend they should suppose they were getting all the lands you selected? A.—I say I had no intention with respect to the matter and that is a perfect answer to it.

Q.—Did you intend them to understand they were retaining any of the land? A.—I say again I had no intention with respect to the matter.

Q.—Is that the only answer you are going to give me? A.—That is the only answer.

Q.—And you will not quarrel with any one who puts his own interpretation upon that? A.—I would have no right to quarrel with anybody; you can make whatever inferences you wish, I cannot help that and if the matter becomes a subject of debate I shall take whatever line I see fit to as to the interpretation.

Q.—Why did you not tell them you were retaining some of the land? A.—Why should I?

Q.—Why did you not? A.—Why should I? Because I did not consider it necessary. If you sell a parcel of land it does not follow you have to tell him all the properties you own throughout the country.

Q.—Did you make another copy of the map than the one in which your selections were indicated in order to hand that map to them? A.—I do not remember doing that.

Q.—Do you say you did not? A.—I don't think I did. I would not say positively I did not give them a map showing the lands they were to receive. I would not say that, but I never told them that was all the lands we got, which is a different thing.

Q.—And that map did not show all the lands you had selected? A.—If it was a map showing the lands they were to receive it certainly did not.

Q.—Did you intend them to understand when you handed them the map, if you did so, that that was the map showing the selection? A.—I intended them to understand that was the map showing the lands they were to receive.

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Q.—Did you intend them to understand it was the map showing the selection? A.—I had no intention with regard to that.

Q.—Did you tell them it was a different map from the one showing your selections? A.—No; if I gave them such a map I did not.

Q.—How did you proceed in making the selection of the land you retained? A.—From the map I say, from the lands that we had.

Q.—And the reports that you had? A.—No, not from the reports.

Q.—From the information you had? A.—Probably from information, naturally from the information.

Q.—Were you retaining the lands that you thought were about the average or the lands you thought were about the best? A.—I did not know as to quality.

Q.—As to location or as to anything else? A.—Those lands that we retained were lands that were as near to the railway as any they got.

Q.—And nearer than most? A.—Nearer than a great many.

Q.—Nearer than most? A.—Yes, that is true.

Q.—And they were retained in the way they were retained probably because they were the most advantageous in your view? A.—Yes, I dare say that.

Q.—Is that fair? A.—Yes, I dare say that is fair enough. They were not any better lands than the others; they were just average lands, and they may not have been as good in point of quality, but these lands were as near as any they got, there would be some perhaps further away than some would be, because of course it was a large block that was sold and a very small block that was retained.

Q.—Did you have a new set of contracts or papers drawn between you and the C. P. R. when you came to deal with these people so that you could present them an option for 200,000 acres of land or less upon which you could put the lands that you did not retain or did not intend to retain and not the others? A.—As I have told you the agreements with the C. P. R. I do not recall that we ever had any writing, but the one set of agreements, I think the other was simply a verbal option and then when the money was paid it was just a receipt given for the money, that is my remembrance of the thing, but that is subject to correction if it is not correct.

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Q.—Do you recognize that document (Exhibit 483)? A.—Of course this is not an original document which you show me, this is a copy. (Referring to copy of agreement between the C. P. R. and Pope & Fowler, part of Exhibit 483).

Q.—Do you recognize it from its contents? A.—It purports to have been signed by Mr. Pope and myself, and I dare say that is all right. I do not find any fault, that is the list of lands—

Q.—That is the list of what lands? A.—Owned by the Pope Syndicate and sold to the Syndicate, that is what it says here. I suppose that means the syndicate that afterwards became the Great West.

Q.—It may have been a list of lands sold to the syndicate but it was not a list of the lands owned by the Pope Syndicate? A.—It says list of lands owned by the Pope Syndicate and sold to the syndicate, I would have to go over them and compare them with the others, but I presume it means simply the lands that were sold to the syndicate.

Q.—And they were not all the lands then owned by the Pope Syndicate? A.—It does not say so there either.

Q.—I have not said it did? A.—It does not purport to be anything of the kind.

Q.—I was asking you whether there was double conveyancing, that is fresh conveyancing vesting these acres in you under one contract and the other 7,000 acres in you under another contract between you and the C. P. R.? A.—That seems to be a transaction—this is direct from the C. P. R. to the—

Q.—Is it? A.—No, this first part. (Reads): "List of lands owned by the Pope Syndicate and sold to the Syndicate." I presume then there would be another agreement for the balance of the lands, there may have been and I do not remember, I cannot recall whether there was or not; at any rate we had the balance of the lands and that is the main point.

Q.—You go with me so far as that, that at the time you were negotiating with these people you had the contract as between yourselves and the C.P.R. splitting up into two, one of which was intended to be passed on and the other to be retained? A.—The lands were split up in two, whether there was actually two contracts you had at that time I don't know.

Q.—There is a contract here which was made at that time and which does

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not include all the lands? A.—I say that is correct, I am not trying to get away from it.

Q.—Have you paid any attention to the form of this, because the form of it may be rather material, it seems to me? A.—I do not see how it is material to the subject of this Investigation.

Q.—Material to see what sort of channels the Union Trust money has been going into? A.—It went into pretty good channels as far as the Foresters were concerned.

Q.—What sort of channels? A.—They made a great deal of money out of it.

Q.—What sort of channels did it go into? A.—They made a good deal of money out of it. If they never made worse investments than they made when they bought these lands I think the widows and orphans would be pretty well cared for.

Q.—And probably would have done better if they had got all the lands you selected? A.—If they had got twice as many too probably they would have done better still. They got all the lands they paid for, I want you to understand.

Q.—Have you addressed yourself to the terms of that document so that you can discuss it? A.—You have kept talking to me all the time so that I have not had an opportunity. This first part apparently refers to the amount that was set apart (Referring to Exhibit 483). "From the lands in the schedule hereto annexed"—that schedule would seem to carry the whole thing that we were selecting the first 200,000 acres out of, because here is what it says "Amounting to 200,000 to be selected prior to the first day of June, 1903 from the lands described in the schedule hereto annexed."

Q.—That was not describing the real thing at all? A.—No; that is what this agreement here would be. I have not read the agreement, I do not know why that would be attached to this. Then here is the particular schedule of the lands, and then follows an agreement made between us and the Union Trust.

Q.—We have not come to that? A.—That is annexed to the other.

Q.—You have looked at this? A.—Yes.

Q.—You observe that this is between the Canadian Pacific Railway Company called the vendors and Pope and Fowler called the purchasers. It witnesseth that in consideration of the

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sum of \$20,000 now paid by the purchasers to the vendors—that was not the fact at that date, you had paid \$60,000? A.—I do not know whether you had or not.

Q.—You have told me you had? A.—I did not tell you that we had.

Q.—At that date? A.—24th April that we had paid \$60,000?

Q.—Yes? A.—No sir.

Q.—You had paid \$60,000 on the 24th April, had you not? A.—No, I do not think you will find it is that date at all.

Q.—When do you think it was? A.—It would be a later date than that; the 24th April would be the time when we paid the \$20,000.

Q.—How much later? A.—I do not know, I am satisfied it was later than that; at any rate I never told you on the 24th April we paid \$60,000.

Q.—Perhaps you will be good enough to let me withdraw that; when did you pay the \$60,000? A.—I have already told you I do not remember the date.

Q.—Will you make a jotting to find out the dates when you paid these amounts to the C.P.R., that you can find out? A.—Yes. That I suppose you have already in your own knowledge, but, however, I will make the memorandum.

Q.—“The vendors hereby give to the purchasers until 15th May, 1903, the exclusive option of purchasing those certain parcels or tracts of land and premises situate in the district of Alberta etc., amounting to 200,000 to be selected prior to the first day of June from the lands described in the schedule hereto annexed”—the lands that were described in the schedule had already been selected with others, is not that true? On the 24th April, they had been selected in December? A.—It seems to me we had until about the first June to make our selection, but it says there 15th May. I think by the verbal agreement we had till the first June. I think we had practically, however, made our selection at that time.

Q.—You told me you had made your selection before Christmas? A.—We were up there before Christmas, and were making the selections, and I don't think we had notified the C. P. R., at that time of our selections, in fact I know we had not.

Q.—Because you said that in some cases they had to re-place, because they had not notified their agents, and certain of your selections had been sold? A.—They had sold—

Q.—And you told me you got back before Christmas—if that is inaccurate I do not want to hold you to it? A.—It is not inaccurate, there is no inaccuracy about it.

Q.—Was not your deal with the C.P.R., in respect of the selections of the land practically completed before Christmas 1902? A.—Oh no, we had not notified the C.P.R., at that time of our selections at all.

Q.—You had not made any notification of your selection at all? A.—Not at all.

Q.—When did you notify them of your selections? A.—It strikes me it was somewhere about the time that we were making the payments, either when we made that payment or later, and I should fancy from that agreement it was later because that seems to imply the selections had not been made.

Q.—This sets out a parcel of land 193,000 acres odd, that is what this schedule describes, and that is what you were offering to these people for sale? A.—Yes.

Q.—You do not of course suggest you had not by the 24th April, selected those and had the C.P.R., notified of your selections, so that the C.P.R., could give you this contract, had you? A.—I do not know whether we had notified them or not, I would not say for certain, because some of these lands were exchanged. What I say is they had already sold some of these lands when we came to get the thing finally wound up between the Canadian Pacific Railway and the Great West Land Company, we had to exchange some of the lands, some of the lands we had included in the schedule had been sold by the C.P.R. and they gave us other sections to put in place of them.

Q.—This purports to confer upon you the right to select on the 24th April 200,000 acres out of a block of 193,000. Does that describe in reality the things as they were then? A.—But you see you are entirely wrong, it does not purport to do anything of the sort. That would be a copy of an agreement with the C.P.R. and ourselves that was attached to this agreement. That agreement would be made before that schedule was made. That schedule would be made after that agreement was made, and the copy of that was attached I suppose; that is the only way I can account for it. We had no such absurd agreement as that with the Canadian Pa-

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cific Railway that we were to select 200,000 out of 193,000.

Q.—I knew that, I was trying to point that out to you and you need not become impatient with me for doing that if you agree with me. This purports to be, as I said to you before, the right to select 200,000 acres out of a schedule containing only 193,000, and I was asking you whether that description is the reality of things as they were at all? A.—Not at all.

Q.—Why was that put in that shape? A.—I don't know.

Q.—You had nothing to do with it? A.—I suppose I had something to do with it, I signed it.

Q.—If you had to do with it it is to you we naturally look for an explanation? A.—The agreement was drawn, I fancy, by Mr. Wilson, I think Mr. Wilson drew it.

Q.—Where does he get the material to draw it from? A.—I do not see any reason now why he would want to attach our agreement with the C.P.R., because the C.P.R. was willing to make a transfer to them of the lands. However it is attached.

Q.—As I suppose you probably furnished him with the very material from which he prepared it perhaps you can explain how he came to state the transaction in that erroneous way? A.—I cannot state any more to you than I have stated.

Q.—And the document does not describe the position of things at all? A.—Not so far as the lands were concerned.

Q.—Was it you furnished Mr. Wilson with this schedule? A.—I dare say it was. Well, of course, I think Mr. Lefurgey and myself—

Q.—Do you say Mr. Wilson drew the contract between the Canadian Pacific Railway and you? A.—I did not say anything of the kind. I said he drew the contract between the Great West and us.

Q.—I am talking of the contract between the Canadian Pacific Railway and you? A.—Mr. Tupper drew that.

Q.—And Mr. Wilson had not anything to do with that? A.—No, not at all; I do not think that schedule you have there was the schedule referred to here in this agreement; it would be referred to there in that agreement.

Q.—You do not think that is the proper schedule to have annexed to this agreement? A.—I do not think

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that is the schedule that belongs there.

Q.—I think you are agreeing with me. I want to know why that schedule was annexed to that agreement? A.—I don't know.

Q.—Why the other schedule was taken off and that put on, the proper schedule to that agreement would, of course, have been the schedule showing the large area over 200,000? A.—I would think so, three or four hundred thousand acres, whatever it was, we had the right to select over.

Q.—You have here a document which is passed on to the other syndicate? A.—Both should have been there, that would be my opinion.

Q.—I agree with you that would be the best judgment you had at the the proper thing— A.—It was necessary to have a schedule which would show the amount of land that we were transferring, and if you have this agreement here you could as long as you refer to a schedule, have the original schedule which would show the 300,000.

Q.—I agree with you that the proper document would have been like this, you would have recited first your right to select out of the larger area your 200,000 and then it would have recited you had selected 200,000, and then it would have recited out of those 200,000 you were going to sell the lands in this schedule, the 193,000 acres, to these people—that would have been correct, but that was not done? A.—Well, there would be no reason in the world why we would not be perfectly satisfied to have the schedule that belonged to this attached there, not the slightest reason, but the contract was the only thing that was necessary to be shown, that there was a contract of purchase, and then we transferred out of that contract the 193,000, and I do not see there is any necessity for a schedule to be attached.

Q.—That is not at all what was done? A.—I do not see the necessity for the original schedule being attached to this, because nothing hung upon the original schedule, not a thing, absolutely nothing.

Q.—It is manifest, is it not, that the schedule that belonged to that was taken from it and another schedule showing only 193,000 was attached to it? A.—That is not the fair way of putting it at all.

Q.—Is not that manifest? A.—This is manifest if you will let me—

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Q.—Is that manifest? A.—No, I will tell you what is manifest; it is manifest that the schedule that belonged to this agreement is the schedule showing the lands that we set apart at the first for the selection of 200,000, it is manifest at the same time that the schedule here is the only schedule which should be here, showing 193,000 acres that we sold to the Great West Land Company, and that so far as the purposes of the agreement between us and the Great West Land Company it was not necessary at all to attach the schedule that was formerly attached to this contract. I hope I have made myself plain.

Q.—You have made yourself quite as plain as the agreement is. So if you can draw your attention to this without mixing it up at all with the Great West Land; here is a contract which purports to be between the Canadian Pacific Railway and Pope & Fowler, and it does not purport to bring in anybody else at all, and it purports to be made on the 24th April, 1903, and it purports to have a schedule annexed to it, now, is the schedule annexed to that for the purpose of that document itself, apart from any other document, a proper or appropriate schedule? A.—Of course it is not. I am going—

Q.—Wait now? A.—I claim the right to make this thing clear as I go, I am going to do it now—

Q.—Will you wait? A.—I say the schedule, it was not necessary for the schedule that really belonged there—

Q.—You cannot conduct this Inquiry yourself, you must let me conduct the Inquiry, you must pay attention to my questions and try to answer them? A.—Yes, but I propose to explain as I go and I claim the right to do so, and I say you are not going to cover this up in a cloud of mystification, that is what you are trying to do; you are not trying to get at the facts. If you want facts you will get that absolute. I have nothing to conceal.

Q.—Now, will you pay attention, do you agree with what I have just said, that for the purpose of this agreement— A.—Which agreement do you refer to now?

Q.—The agreement before you? A.—With the C.P.R.?

Q.—Yes? A.—Certainly. I say that is not the schedule that belonged to that agreement.

Q.—Wait now till I ask you a question? A.—I am waiting.

Q.—When this agreement was executed between you and the Canadian Pacific Railway Company had it on the proper schedule? A.—Certainly it had, I presume it had, I am sure it had, the C. P. R. would not make it without the proper schedule.

Q.—That is the agreement which you were putting forward with this schedule to these purchasers, is it not? A.—No sir, that is just where you have barked up the wrong tree.

Q.—Did you ever show the purchasers the agreement between you and the C.P.R. with the appropriate schedule to it? A.—I do not know that I did, I would just as leave they would see it as not. Why not?

Q.—Did you ever show it to them? A.—I do not remember, perhaps I did and perhaps I did not, I do not know.

Q.—This agreement was put forward with its schedule to it by you or by somebody or else how did it get in the possession of the purchasers? A.—Do you want me to tell you.

Q.—Yes? A.—When we made the agreement for the sale of these lands I furnished the Great West Land Company with a statement of the particular lands that they were to receive with a schedule, and of that schedule this is a copy. Now, they wanted a copy of the agreement between us and the Canadian Pacific Railway, and they got a copy, and they attached to that this schedule of—

Q.—Who did? A.—I presume Mr. Wilson did, I don't know who else; I cared nothing about that. Naturally, why would they want the schedule of the lands we were to make our selection out of.

Q.—Naturally why would not you give them the agreement with the schedule that belonged to it? A.—I do not know any reason why they should have it; I don't know whether I did or did not give it to them, but I do not care whether I did or did not, it has nothing to do with the matter, and this schedule I referred to here does not purport to be schedule B. annexed here. That is where you see you did not look close into the matter, if you had you would have seen.

Q.—I saw that long ago? A.—Then I do not see why you are wasting all this time in an attempt to make me say it did.

Q.—I want to know why the appropriate schedule is not there? A.—Because it would not be pertinent to that agreement.

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Q.—To what agreement? A.—To this agreement.

Q.—I ask you to waive that agreement, I am talking of the agreement between you and the C.P.R., is it appropriate to that agreement? A.—Not as used in that connection.

Q.—Do not use it in any connection except for the purpose of this document? A.—Then take that other schedule off and I will tell you.

Q.—I won't take that schedule off? A.—I say that schedule refers to another agreement, not to that agreement. I say that is where you have made the blunder.

Q.—I want to know how the right schedule got off and the wrong one got on? A.—I do not care, it had nothing to do with any agreement between us and the Great West Land Company, it did not make any difference to the Great West Land Company whether the schedule purporting to cover four or five hundred thousand acres was there; what we were selling to them was 193,000 acres, or whatever it might be; at any rate it was specified more than once.

Q.—I have heard you say that two or three times? A.—I have to say it a great many times to get it impressed on your mind.

Q.—Oh no; try and fall in—A.—You are trying to mix me up.

Q.—Try to fall into a smoother voice, let us try and get along a little more comfortably. You quite appreciate that this is an agreement with the schedule annexed to it, which is being recited in a conveyancing between yourselves, and the Foster Syndicate? A.—That is just—

Q.—Don't you? A.—No, that is just where you are all off yet. Why won't you see what I am trying to point out to you? Let me point it out again. The schedule referred to in the agreement is schedule B. The schedule referred to in this agreement, which is a copy, is another schedule called B, or whatever it may be. I do not know whether it is B or C or X or Y, it is another matter altogether. We had an agreement with the C.P.R. that we were to select certain lands out of a certain block of lands; we did that. That is a copy of the agreement, and the agreement carries with it the schedule showing the lands we were to select out of. We made our selection, we sold of those lands certain specified lands to the Great West Land Company; they attach to that agreement in making that a copy of this agreement without the schedule, that was

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between us and the C.P.R., but with the schedule that was submitted to them by us. I cannot make it any plainer to you if you talked all day.

Q.—And still you have not addressed yourself to the thing that is worrying me, and if you will do that it will be so much better? A.—I have tried to. You are not so obtuse as you try to make out today.

Q.—This agreement between the C. P. R. and Pope and Fowler purports to give to Pope and Fowler the option of selecting 200,000 acres of land out of the lands described in the schedule hereto annexed, do you see that? A.—I do.

Q.—And that agreement between the Canadian Pacific Railway and Pope & Fowler turns up among the papers of the Union Trust Company in the shape in which I put it before? A.—Exactly.

Q.—Do you agree to that or will you accept that as laying the foundation for a question? A.—I say that is true, that this agreement between us and the C. P. R. has not attached to it a copy of the schedule that was formally attached to it when it was executed between us and the C. P. R.

Q.—But it has a copy of another schedule which is inappropriate? A.—Not at all.

Q.—It has a schedule attached to it? A.—Yes.

Q.—That schedule is not appropriate to this document itself? A.—It has nothing to do with that document, but it has to do with another agreement.

Q.—You are going to agree with me? A.—I am agreeing with you as to the statement of fact, but you are drawing the wrong conclusions.

Q.—No? A.—Yes, you are saying it is not the proper schedule, I say it is the proper schedule to have there, and it was not necessary or essential in any sense to have the other schedule attached to this.

Q.—Let me put it to you in another way; would you have considered it proper to have brought this agreement, before you had any agreement with anybody, supposing you were come to sell these lands to me, would you have considered it proper to have annexed this schedule here to this agreement and put forward that as the agreement between you and the C. P. R.? A.—I never put it forward.

Q.—I ask you if it is proper? A.—That is an abstract question; I say I never put that forward.

Q.—I ask you if you would have

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considered it a proper document to put forward if you had been bringing the lands to sell them to me, would you think that was proper to say, "Here is my agreement between me and the C. P. R., here is my agreement with the C. P. R."? A.—I never represented—

Q.—Would you have considered it proper? A.—If I had represented that that was the schedule that was properly attachable to this I say it would not be proper, and I say a man that would read that over and say that was the schedule that was attached to it would be a jack-ass.

Q.—And the man who attached it what would he be? A.—He would be a man who would very much under-rate the capacity of the man for whom he attached it.

Q.—Who did bring down this as a copy of the agreement between Pope & Fowler and the C. P. R.? A.—It is a copy of the agreement between Pope & Fowler and the C. P. R.

Q.—The schedule hereto annexed, which is declared to form part of this agreement, who put that forward as the contract between Pope & Fowler and the C. P. R.? A.—There was no schedule attached to that, cannot you understand? The schedule you have there was attached to another document, just as that was an attachment.

Q.—Just as it is attached to this? A.—Not at all. Would you say if you had a paper in the Court with a number of affidavits attached, would you say the one affidavit was attached to the other? Would not you say each of these affidavits was attached to the order, if it were an order, if it would be an order to which they were attached? You cannot get away from that; you cannot take these papers up separately and discuss them, you must discuss them in connection with the agreement of which they form part. There is the agreement between us and the Great West Land Company, and there is the schedule that belongs to the agreement, and there is the copy of the agreement without the schedule, that was our agreement with the C. P. R., why would there be any necessity, when we had sold these lands, we had made our selection, why would there be any necessity in attaching the schedule that was originally attached to that.

Q.—Because it was part of that agreement and declared to be so by the terms of the agreement itself, and because if it were attached these people would have seen in a moment they

were not getting all the lands? A.—I say that schedule, it was a schedule of the lands we were selling; that agreement is a copy of the agreement between us and the C. P. R. You say that agreement provides that we were to have the right to select 200,000 acres from the schedule annexed thereto; do you suppose any reasonable man would take that as the schedule which was originally attached to that?

Q.—If he did not examine that very carefully and count up all the acres that were in it? A.—Do you suppose any man who is acting for other parties, who is a solicitor of standing, is going to buy property to the amount of \$900,000 or nearly a million dollars without examining to see what he is getting? I think it is ridiculous.

Q.—Now, listen to me for a little while; do you think that a schedule which is declared to form part of the agreement, is part of the agreement at all, or has it nothing to do with it? A.—It may or it may not be. It may be—

Q.—If it is declared to form part of the agreement is it part of the agreement or not? A.—That depends upon the circumstances. If the purpose for which the schedule was made has gone by, if the object has been attained, then it would not make any difference whether the schedule was attached or not, when you are giving a copy of that agreement; when the sale was made the object for which the original schedule was attached had gone by, had been attained, the lands had been selected, they were selected because there is the schedule containing them, therefore it would not be necessary to attach it—

Q.—You have told us that several times, do you consider that a schedule which is declared to form part of an agreement is part of it? A.—I tell you I consider that it was not necessary in any case to put that particular schedule that is referred to there in these papers.

Q.—What I have asked you, pay attention to the question, I have asked if you consider that a schedule which is declared to form part of any particular agreement is a part of it? A.—Of course it is a part of it.

Q.—Do you consider it would be proper to put forward the agreement with another schedule attached to it which was not the schedule that the agreement referred to? A.—That was not done here.

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Q.—I did not say it was? A.—There is no necessity for my answering.

JUDGE MACTAVISH: I think he has answered it; he said it was improper in his opinion.

MR. SHEPLEY: Do you say when you brought this agreement between you and the C.P.R., to deal with these people it had not this very schedule annexed to it before there was any agreement made with the other people at all? A.—Yes, I say it was not annexed; I say they probably got from—

Q.—If you swear that the schedule which now appears annexed to this agreement was not annexed when you commenced to deal, then you have answered my question? A.—They may have been pinned together. I tell you this, I never submitted that schedule as being the schedule of the lands that the C.P.R., gave us the right to—

Q.—It may have been pinned to it? A.—I do not know whether it was or not, I could not say.

Q.—You say it may have been? A.—Yes.

Q.—You are certain of this that the appropriate schedule that belonged to it was not pinned to it? A.—Because it was not necessary.

Q.—It was not pinned to it as a matter of fact? A.—I presume not.

Q.—If it was not pinned to it was it because it had been taken off it, because it was originally attached to it, that is right is it not? A.—This is only a copy there may never have been a copy of the other made.

Q.—I am talking of the original agreement the original agreement referred to a schedule which makes it part of it, and it says the schedule is annexed; this original agreement originally had the schedule annexed to it? A.—I presume it had, I do not know it had even.

Q.—If it was not annexed to it when you commenced to deal with these parties then it was not annexed because— A.—Certainly the original schedule, if there were one did not define and set out the lands as they are set out in that schedule, particularly by sections.

Q.—I have asked you whether or not if that schedule was not annexed to the agreement when you came to deal with these people whether it must not have been detached from it? A.—If it were there originally and was not there then it must have been detached; that would follow as a matter of course.

Q.—And if it was detached and this one pinned to the agreement in—

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stead that would not in your view be proper? A.—I did not say anything of the kind.

Q.—Do you think it would be? A.—No, I did not say it would or would not.

Q.—Do you now? A.—If it were pinned for the purpose of being made part of that agreement it would not be proper.

Q.—Why? A.—Because it would not be the schedule that belonged to it, that would be the reason why, and an excellent reason, but I say this, that I never presented to those people with whom we were dealing a schedule and represented it to be the schedule that is referred to in that agreement you speak of.

Q.—We will pass from that to the agreement you made with the Union Trust Company; we will see what you said about it; when you came to make that agreement you attached both this agreement and this schedule to it: This witnesses that, "Whereas Pope & Fowler of the first part, have by virtue of an agreement made by and between the parties hereto of the first part and the Canadian Pacific Railway bearing date 24th April, 1903, a copy of which last mentioned agreement is hereto annexed, marked A, the right to purchase certain lands at and for the price and under the terms and conditions in the said agreement A more fully set forth"—look at the agreement A, what right to purchase lands was given you by that agreement A? A.—Go on.

Q.—200,000, is that right? A.—Yes.

Q.—You put in 200,000 acres just to make it clear, the right to purchase 200,000, "At and for the price and under the terms and conditions in the said agreement A more fully set forth, which said lands are also specifically mentioned in schedule B hereto attached?" A.—That shows the schedule was attached to that agreement, and not to this.

Q.—It was attached to both? A.—Not at all, it says it was attached to that agreement and not to this.

Q.—"Which said lands"—that is the lands the right to which you acquired by virtue of that agreement—"are specifically mentioned in schedule marked B hereto attached? A.—Exactly, and other lands as well.

Q.—Is that true? A.—Yes, and other lands as well; we do not say they are all the lands.

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Q.—Is that true? A.—I say that is true.

Q.—That you acquired the right to purchase? A.—That is the mere recital of this; of course it is true.

Q.—The right to purchase certain land under an agreement hereunder set forth, don't you think that means all the lands you had a right to purchase under that agreement? A.—No, not of necessity meant all the lands.

Q.—The right to purchase certain lands by virtue of the agreement was the right to purchase 200,000? A.—Yes, and it was a right to purchase any lesser amount.

Q.—A right to purchase 50 acres? A.—Yes, and any lesser amount.

Q.—When you are reciting an agreement by which you have a right to 200,000 acres, when you say by virtue of an agreement you have the right to purchase certain lands, meaning 200,000, which said lands are specifically mentioned in Schedule B, you can do that with it and still not be doing anything which does violence to the agreement itself? A.—When we submitted a schedule containing the very lands we claim to be selling—

Q.—What did you reserve these 7,000 acres, or thereabouts, for, for your own purposes? A.—Yes.

Q.—I think you have said in another place you intended to form a little corporation and make money out of that for your own purposes? A.—We were going to carry that.

Q.—Out of the moneys you were getting on selling the large block, is that right? A.—I do not know that it is very essential to this inquiry whether it was out of this money or our own money, or any money. You are carrying the thing too far.

Q.—Was it out of moneys you were going to make out of selling the 193,000 acres that you were going to carry the 6,300? A.—I will say in answer to that there was no idea in my mind, I do not know about the other gentlemen, as to how we were going to carry it, whether it was out of the money we were going to get out of this or any other money; we probably would not ear-mark that particular money and put it away for that particular purpose.

Q.—Is it true that after the transaction was over they complained to you that you ought not to have had any land that you did not give them under this agreement? A.—No, why should they?

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Q.—You say they did not? A.—No, of course nobody ever complained to me.

Q.—You never heard of any complaint? A.—No, that would be the most absurd complaint, it would strike me; it never came to me.

Q.—We are told it was? A.—I heard nothing of it; it seems to me to be a very absurd one, too. I do not see what difference it would make; there were lots of other people who held lands in that section. I did not see why we could not hold them; the C. P. R. held lands there and there were individuals who held lands there.

Q.—What dealing, if any, had you with the Ontario Town Sites Syndicate apart from the dealing you had with Messrs. Foster, Wilson and McGillivray? A.—I do not know; you see I cannot tell you anything about that, the matter was mixed up with respect to them; there may have been a draft agreement, I think there was, submitted; there was some negotiations went on, I do not just know, I did not pay very much attention to that, and I know we never entered into any final contract with them.

Q.—Has that anything to do with the Farm and Town Sites Syndicate? A.—This looks like a draft agreement.

Q.—Do you recall it at all? A.—No, I do not remember this being submitted to me, but I presume it was because I see my handwriting there.

Q.—Will this help you at all (hands letter and memorandum to witness)? A.—My handwriting is there and I see some corrections I have made in that draft.

Q.—And that letter would indicate it was you who furnished that schedule as well as the copy of the agreement? A.—I do not know whether it refers to that particular one or not, I fancy it does.

Q.—There cannot apparently be much doubt about it? A.—No.

Q.—This seems to be a draft of the agreement that finally was made? A.—I do not think so.

Q.—You see the Union Trust Company is filled in there? A.—It may be finally made, that would be done afterwards; those things were not filled in when it was submitted to me.

Q.—The date of your letter is the 20th May, and the date of the transfer to the Union Trust is the 30th

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May, so that it seems to be about the same time? A.—The agreement would show in itself whether this was really a copy of it.

Q.—I will put the three together, the dates fit in; on the 23rd May you were sending agreement A, which was the agreement between yourself and the C.P.R., not annexing the schedule which was part of it, because you did not think it necessary, and you were also sending schedule B which was the schedule of the lands you intended them to receive? A.—Yes; you see the other would not be the lands I intended them to receive, because it was three or four hundred thousand acres.

Draft of agreement referred to and letters attached marked as Exhibit 583.

Q.—What was your final arrangement with Messrs. Foster, Wilson and McGillivray? A.—The final arrangement was, that we were to receive a certain amount of, 75 per cent. I think of the money was to be money —

Q.—That is your profit of \$1 per acre? A.—Yes.

Q.—That would be \$150,000 or thereabouts if it was 200,000? A.—Yes, I think it was only 143,000, I think we were to get \$50,000 of stock in the Great West Land Company. Then that was extended I think to \$5,000 more, we got ten per cent. more.

Q.—How was that? A.—I think as I understand it this syndicate were taking the lands, they were financing the scheme—I am just giving my recollection which may be somewhat defective with respect to the matter; they were to finance the scheme and we were to turn these lands over at \$5 instead of \$4.50, as they got them from us, to the Great West Land Company, therefore we said, "Here, if you put these lands into the company at an advance we ought to share in that advance otherwise the stock is not worth as much to us as it would be as if it were put into the company at \$4.50, and that seemed to be a fair proposition.

Q.—At all events it was accepted? A.—And it was accepted and we got the \$5,000.

Q.—You said that this was to be financed, what was the discussion as to where it was to be financed, and how? A.—There was not any discussion with me with respect to that, I did not know who—

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Q.—You see this draft agreement, when it was sent forward to you, though the name is blank vests in a trustee—when was the Union Trust Company first mentioned to your knowledge? A.—I do not know, I fancy the first that I would know about the Union Trust Company would be when we would sign the agreement. I never went to the Union Trust Company with respect to the matter.

Q.—You knew Mr. Foster was the manager of the company? A.—Yes, and I never had had any business with them.

Q.—You probably knew that Mr. Wilson was a director? A.—No, I did not know that.

Q.—You did not remember about Mr. McGillivray being in it? A.—No, I would not know he was a director anyway; I knew Mr. McGillivray was in the Foresters, I did not know at that time he was a director of the Union Trust Company.

Q.—Did you know of the close connection between the Foresters and the Union Trust Company? A.—No.

Q.—Do you say when you were introduced to Mr. Foster in connection with the— A.—I knew Mr. Foster for a good many years.

Q.—I mean when you were introduced to him in this connection did it strike you at all that he was probably there as the Manager of the Union Trust Co.? A.—Oh no, not at all.

Q.—Were you familiar with his finances? A.—Only as far as the business that he and I had had together for over twenty years.

Q.—You would not look to him probably unassisted to finance a transaction of this sort? A.—I would not expect one individual to have financed a big transaction like this unless he was very high up in the financial world, perhaps Senator Cox, or someone like that.

Q.—It is not any disparagement to Mr. Foster, and it is not so intended, but you would not have looked upon him as a man who was himself financially capable of carrying such a proposition? A.—Alone?

Q.—Yes? A.—No, I did not suppose he was alone. I understood there were others with him, I did not suppose he was alone.

Q.—How far did they take you into their confidence when you signed the Agreement and saw the Union Trust Co.? A.—I supposed then that

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the Great West Land Co. were going to borrow money from the Union Trust Co., to tell you the truth I never paid very much attention to the working of the Great West Land Co. I never attended a meeting; Sir John Boyd was the President of the Company as I understood, and the men upon it were men of character, of the Great West Land Co. and I supposed it was all right. I do not think I ever met once. I believe I was a director but I never met I may have met once.

Q.—We have seen how your right to get these lands became vested in the Union Trust Co.; then were you party to the subsequent negotiations by which the stock was distributed, the stock in the Land Co.? A.—I do not know what distribution you refer to. All I paid attention to was the distribution as to myself and my colleagues; I do not know how the other was distributed.

Q.—This is a copy of an Agreement which may be within your knowledge and may not? A.—Did I sign it?

Q.—I do not think so? A.—No, I never did (refers to Exhibit 486).

Q.—Look at the distribution of the stock there and say whether that distribution was a distribution of which you were aware at the time it was made? A.—Is that the whole of the stock, is that just the \$100,000?

Q.—That is the \$100,000? A.—No, I do not know anything about that at all.

Q.—It is really \$150,000, because your \$50,000—your \$5,000 and the \$95,000? A.—That is only \$100,000.

Q.—That does not represent the \$50,000 at all? A.—That is only 50 shares, that is the ten per cent. that was added to ours when the 50 cents an acre was added. I would not know anything about that.

Q.—That is an apportionment merely of the \$95,000? A.—Yes, I do not know anything about that.

Q.—You were not aware of that? A.—No.

Q.—Except you did get 50 shares out of the 100? A.—Yes, we were to get \$5,000.

Q.—At the time this was arranged, which was in June, 1903, who were interested in your syndicate, the same gentlemen? A.—Well, at that time, afterwards Mr. Pope and I bought out those two other people we had to finance for, I do not know just when that was done, whether that was before this transfer or not, I could not tell you, I do not know.

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Q.—It was pretty soon after the matter had been financed, was it not? A.—It was after the matter had been financed.

Q.—As soon as you were sure that it had been arranged so that it would be carried through, then you bought out your friends? A.—You say, there was not—

Q.—They wanted small profits and quick returns perhaps? A.—Exactly.

Q.—You bought them out and claimed to be entitled to the benefit of what you so received? A.—Yes.

Q.—What I really had in my mind was this, you said this morning that Mackenzie and Mann disappeared, not having had to pay the note; I want you to tell me about that, how that happened, were Mackenzie & Mann financing you with this transaction? A.—All Mackenzie & Mann ever did in the matter was to endorse for us. ;,

Q.—Endorse to the extent of how much? A.—\$40,000, or something; \$42,000 I think it was.

Q.—How did you dispose of their interests, because they were to have an interest you told me— A.—That was only if they had to finance the scheme through.

Q.—What arrangement did you make with them when they did not have to finance the whole scheme? A.—They said they were not able—I do not know what reason Mr. Pope—is he summoned as a witness? Have you Mr. Pope summoned as a witness?

Q.—Tell me what you know? A.—I was going to tell you you could get all the information from him, because he knows it at first hand.

Q.—You could tell me what you understood? A.—What I understood was when they found we had this offer they said it was difficult for them—they had enough to do to finance their own business, and we had better take the offer and let the thing go. We knew there was a very large amount of money to be made in this thing if we were able to carry it through, and that being the case, we accepted this offer and let it go.

Q.—What became of Mackenzie & Mann? A.—They are still doing business at the old stand, as far as this scheme was concerned, of course, they were out of it.

Q.—You retired the note? A.—Yes.

Q.—They have no interest in the concern at all? A.—So far as I am aware.

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Q.—Were they remunerated for financing as far as they did? A.—They never received any remuneration.

Q.—Of any kind? A.—No, it is not an unusual thing for a friend to endorse a note for you.

Q.—You have had some litigation with respect to your interests in the Great West Land Company? A.—Yes.

Q.—And that litigation we have been told is upon the eve of being settled? A.—It is still pending.

Q.—But probably almost settled—I am not going to ask you the terms of the settlement at all, Mr. Fowler—that is so? A.—Well, there have been negotiations for settlement, but there are no negotiations completed.

Q.—In connection with getting these lands from the C.P.R. did you pay any commissions or bonuses to anybody? A.—I paid none.

Q.—Do you know of any being paid? A.—I do not know personally of any being paid, I have no personal knowledge.

Q.—What have you been told about it? A.—I do not know that I can tell you anything I have been told. I have been told nothing as far as anything definite is concerned, I have not been told anything.

Q.—What have you been told that is not definite? A.—I understood there were some commissions paid to parties that were giving information with respect to the character of the lands and all that, not with respect to any person in the C.P.R. employ or anything of that kind.

Q.—You understood commissions were paid? A.—We had commissions, I do not know whether you would call it commissions or not.

Q.—How much did you understand was paid altogether? A.—There was no sum stated to me.

Q.—You do not know whether it was thousands or hundreds? A.—No, I know nothing about it.

Q.—You would know whether there was a very large sum or not, if it was a very large sum you would know of it? A.—I did not pay any, nor I did not share in the payment of any, nothing was retained from me on account of it.

Q.—If it was a very large sum you would know about it, would not you? A.—There may not have been any paid at all.

Q.—From whom did you get your information? A.—Mr. Pone said to me it would be necessary for him to pay something on account of informa-

tion, that is all I know about it. This was not, however, any person who was in the employ of the railway company, and I do not know whether he ever paid a dollar or not. He paid the expenses and he handled the moneys out of there.

Q.—You did not hear of any commission paid to anybody in the employ of the C.P.R.? A.—No, not a soul, and I am sure there was not.

Q.—You would have known about that if that had happened? A.—I might or might not.

Q.—But you are sure it did not happen, therefore? A.—I am sure—

Q.—Well then you had a transaction in which you had dealings with the Union Trust Company called the Kamloops Lumber Company? A.—Yes.

Q.—What was the origin of that? A.—Some time in October, 1903, I think, I got an option, I think it was on the 22nd October, 1903, as nearly as I can remember, I got an option from Mr. Peter Ryan on a lumber property, including a mill and outfit and timber limits at Kamloops, I think it was called the Kamloops saw mill. I was negotiating the sale of this property to a man named Harper.

Q.—You were negotiating for the sale of it to a man named Harper? A.—Yes, I had an option to him for this property and I was negotiating a sale of it to a man named Harper, an American, and after some weeks Mr. Harper fell down, some length of time, I do not remember how long, he was not able to carry out his end of the contract, and I then went to Mr. Foster and asked him if their people would take up the matter of this Kamloops business, and they began to consider it. I laid the matter before them, and they were considering the matter for some time, and finally they did take over the property.

Q.—And finally they agreed to take over the property? A.—Yes, and did take it over.

Q.—Is that all? A.—Well not all.

Q.—Were you interested in the property? A.—I was interested in the sale of it, yes.

Q.—Were you interested in the purchase of it? A.—I purchased it.

Q.—Were you interested in the purchase of it by the Union Trust Co., what was the arrangement between you and the Union Trust Co. about it? A.—The arrangement was that they were to pay for the property. You see I had taken over the property before they took it from me. I saw

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that it was stated that I was an agent of the Union Trust Co. in connection with the purchase of the Kamloops property. That statement was a misstatement. It was a mistake. I was never their agent. I obtained the option on the Kamloops property not with any intention or expectation of placing it with the Union Trust Co. at all, but on the other hand with the expectation of placing it with this man Harper; when that fell through, I turned to the Union Trust Co. But before the arrangement with the Union Trust Co. were perfected, while they were in progress and while I did not know whether they were really going to take over the property or not, I personally took over the property as far as accepting. I accepted the option. I had an option for purchase, and I accepted the option, to make myself personally responsible. I think that was either on the 24th or 26th January, it was immediately upon the expiry of my option, and I think it was somewhere about the 9th February, when the Union Trust Co., that is the Kamloops Lumber Co.—well it was the Union Trust Co.—took over the property; therefore from the 24th or 26th January until the time that they took over the property and I transferred to them, I was the owner of that property, subject of course to the payment of it, and I was never at any time their agent in connection with that particular property. Later I was their agent in connection with the purchase of some other property.

Q.—Were you a joint purchaser with the Union Trust Co.? A.—Then. I agreed to go into the Kamloops Lumber Co., that was going to take this property along; we were going to form a company then along—

Q.—That is the Union Trust Co. was going to form a company and you and the Union Trust Co. were to be joint partners in that? A.—I was to have a quarter interest, 25% of the stock.

Q.—Was that arrangement originally an arrangement by which there were others to be associated with you, the Union Trust Co. to keep control, having 51% of the stock while you three had the 49%? A.—Yes.

Q.—Who were the three? A.—Mr. Irwin, Mr. McCormack and myself were to take 49% of the stock and the Union Trust Co. were to take 51%.

Q.—When was that negotiation commenced, how long had that been pending, the negotiation by which you

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were to have 49-100 of an interest? A.—I fancy from the beginning, do you see all the negotiations with the Union Trust Co., that feature of it, would be understood I fancy—

Q.—Had you had a dicker which did not come to anything on the same proportions with respect to other property? A.—Yes we had once before. There was a property down in the Province of Quebec, and what we proposed to do in that I think was half and half and I do not think it was to be a control in either party, I think that was to be 50 per cent. each.

Q.—You perhaps are not clear enough to contradict anybody who says it was 51 per cent. and 49 per cent., would you be? A.—Yes, that was never intended to be, I do not think, a majority of the stock, I think that was to be an even divide, that is my recollection of it.

Q.—You three were to have half? A.—It was not us three at all, there were a number of other persons in that, and the proposition that was made to the Trust Company in that case was that these gentlemen would put up their half and the Union Trust Co. would put up their half. The Union Trust Co.—

Q.—That proposition at that time preceded any interest you had in the property, you had not any interest in that property at all? A.—Not in that particular property, because an interest never was acquired by anybody.

Q.—Is it right to say you introduced the topic to the Union Trust Co.? A.—Yes.

Q.—It was of this nature: "Here is a property we may make a good thing out of it by buying it jointly?" A.—Yes.

Q.—You having no interest in it at the time? A.—No, I had no interest in it at the time and the other gentlemen who were to go into that, the understanding was that they would put up their share of the money, and that the Union Trust Co. would put up half. The Union Trust Co. stated that they preferred not to deal with half, they would rather provide all the money provided they were secured for all the money they put in. Well, we went down and looked over that property and we did not think it was a good proposition, we did not think there was any money in it.

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Q.—How long was that before you took up the Kamloops? A.—That was some time before.

Q.—Not very long I am told, I do not know myself of course, we have been told it was very shortly after? A.—It was quite a while before, it was quite a little while before, I could not tell you just how long, but it was quite a little while. There was a letter I think. I think I wrote about it. The letter would show about what time that was. I would not be able to tell you exactly what time that was, as I say, I had not the Union Trust people at all in mind.

Q.—You had nobody associated with you in the Ryan business? A.—I was alone in that.

Q.—Out on your own behalf? A.—Yes.

Q.—Not representing anybody when you got that option? A.—I took the option for myself.

Q.—When you introduced it to the Union Trust Co. did you introduce it as your own property, or did you introduce it as property which you had acquired by a scheme somewhat similar to the one you had had before? A.—I introduced it as an option I had upon this property. I had the option and there was no question of introducing it in any other way than a statement I had an option on this property that could be bought for such a price.

Q.—What did you tell them the option was? A.—I think it was for \$250,000.

Q.—Had you an option for \$250,000? A.—Yes.

Q.—Was there concurrently with that an option for \$200,000? A.—Yes.

Q.—What was the purpose of that? A.—The difference would be what I was to make.

Q.—That is between you and Ryan? A.—Yes.

Q.—Ryan gave you an option at \$200,000, which was the price he was to receive, and he also gave you an option at \$250,000, which was the price he was not to receive? A.—It would be the same thing as an agreement that I was to receive \$50,000, the difference between the two.

Q.—An agreement that you would get that much more out of the purchaser and you take the difference? A.—That Ryan would get that much more and I would take the difference.

Q.—With the intention, of course, that the purchaser should suppose your option was to purchase at \$250,000?

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000? A.—He could suppose what he liked.

Q.—And you were not making any profit turning it over to him? A.—That would be a question for the purchaser.

Q.—He could look out for himself? A.—Yes, if he wanted to ask me whether I was getting anything out of it that would be another matter.

Q.—He would be expected if he fell into your plan to not ask any questions and to think you were really having to pay the \$250,000 you were asking him? A.—I do not know what he would be expected to do.

Q.—What would you expect him to do? A.—I would expect him to take the property if he thought it was worth it, and not to take it if he did not think it was worth it.

Q.—What would you expect him to believe as to what you were paying for it? A.—He could believe what he liked with respect to that.

Q.—That was a matter of indifference to you? A.—Yes.

Q.—Even if you were proposing partnership? A.—Even if I was proposing to take a portion of it, that would show my faith in the proposition.

Q.—Even if you were proposing a partnership with him you would not see anything improper in putting forward a document to him which represented the price you had paid? A.—Put it that way if you like.

Q.—Would you think it was improper? A.—Put it that way if you like.

Q.—I want you to put it that way if you will? A.—I was placing the property before these people for them to purchase, showing my faith in the property, I was willing to take a one-quarter interest in it with them or not if they liked, but if they wanted me to take the one-quarter interest I was willing to do it. I said this property is worth this money. The property was examined and investigated and it was shown to be worth the money, and it was shown to be worth a good deal more than the money, and more than double the money, and I was very glad to get the one-quarter interest in it. The property was bought under those conditions, and my faith in the property has been justified by the fact that they have sold it for a very much larger sum than what was paid for it, and then they sold it for very much

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less than what it was really worth. The property has been sold for \$350,000, as I understand, that portion of the property that was bought, the Kamloops property, the property they gave \$225,000 for, has been, with a portion of the property that they gave \$40,000 for, sold for \$350,000, leaving out one limit, No. 237. That, according to the report of the Americans who had bought, has two hundred and fifty millions of lumber on it, and, at \$1 per thousand, you can see how much that would be worth; therefore this property is worth \$600,000; therefore when the Foresters, when the Union Trust bought that property for \$250,000, adding the \$40,000, would make \$265,000, if you will, they were buying a property that inside of three years is worth \$600,000.

Q.—Have you finished? A.—Yes, for the present.

Q.—Would you consider it proper if you were approaching a man with an offer of partnership in a property you owned, to lead him to believe you had paid more for the property than you had, lead him to believe you were giving him the property for what it cost you? A.—I should consider it would be perfectly right for me to take this property if I were approaching a man as partner, I would consider it perfectly proper for me to put that in at any reasonable figure and which would allow of a margin, and it would not be necessary for me to state to this man what I gave for the property; just as if I bought a horse it would not be necessary for me to say to the man to whom I sold the horse or who got a half interest or a third interest exactly what I paid for the horse.

Q.—That is not an answer to my question? A.—I think it is.

Q.—My question is would you think it proper to put before your intended partner a statement that you were handing in to the partnership the property at the price you paid for it? A.—I did not say I did.

Q.—I did not say you did, but would you consider it proper? A.—No. If I had made a statement that I was paying a certain price for this property and that I was not getting the property for any less amount, if I did state to the Union Trust Company that I had no interest in this, and was getting no interest out of it, I say then I would be wrong—

Q.—Did you show the option be-

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tween you and Ryan? A.—No, nor did they ask me to see it.

Q.—Did you tell them you had an option at a certain figure? A.—At the lesser or greater figure?

Q.—At the greater figure? A.—Of course they saw that option.

Q.—Did you tell them that although you had the option at the greater figure you were going to get it at the lesser? A.—I tell you I did not.

Q.—Did you intend them to believe you were paying the higher figure? A.—I did not care what they believed, if they had asked me I would have told them, and they did not ask me.

Q.—Did you intend them to believe you were paying as much as you were putting the property in to them at? A.—I intended them to pay exactly \$250,000, if there had not been that amount of land rejected, but I expected them to pay the amount of the larger figure, yes.

Q.—You expected them to pay that under the belief that you were paying it, that is the question I ask you? A.—Well.

Q.—Will you answer it? A.—No.

Q.—Then the option was subsequently reduced to \$225,000 between you and Ryan? A.—Yes, because one limit was taken out that was not tributary to the mill.

Q.—And that was accompanied by an option of the real sum of \$170,000? A.—Yes, there was \$55,000 between the two.

Q.—And similarly with regard to that you did not put forward anything to your intended partner but the \$225,000? A.—I did not tell them I was getting the difference between \$170,000 and \$225,000.

Q.—You did forward the \$225,000 option? A.—Yes.

Q.—Between Ryan and you? A.—Yes.

Q.—As indicating the price you were paying Ryan? A.—I showed them and gave them, I think I transferred to them the \$225,000 option.

Q.—As indicating the price you were paying? A.—No; you can put any complexion or draw any inference you like.

Q.—I want to know what you were doing, were you putting it forward as the figure you were paying Ryan? A.—I was putting it forward as the figure they were paying Ryan.

Q.—The document was between Ryan and you? A.—I did not put

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it forward as having anything to do with respect to that the document was between Ryan and myself that is all right.

Q.—And it purported to indicate what you were paying Ryan? A.—It purported to indicate what I was to pay Ryan.

Q.—And you put it forward as purporting to give what you were to pay Ryan? A.—I did not say anything as to what I was paying Ryan.

Q.—Did you intend them to believe you were to pay the \$225,000? A.—I have answered as far as I propose to answer it, and you can draw your own inferences, you can draw any inferences you like.

Q.—I am not drawing inferences? A.—I am answering your questions a great deal more fully and a great deal more in detail than I have to.

Q.—I thought we were going to leave that behind us? A.—We may have to bring it up in front of us.

Q.—You completed your arrangement with the Union Trust Co., got the money and paid it to Ryan? A.—Yes.

Q.—Believing that that was the contract that you had with Ryan, and believing that you were not making any personal profit as you supposed? A.—I do not know what they believed.

Q.—You supposed they believed that? A.—I do not answer as to what I supposed or did not suppose, I simply state to you what the fact is; the fact is that there was the arrangement with Mr. Ryan.

Q.—I am not asking that, I am asking something quite different? A.—I did not show them the smaller contract but I gave them the other, I transferred to them that contract with that consideration of \$225,000, and they paid the money to Ryan as far as I know.

Q.—That is not what I am asking you; they paid the money to Ryan believing that that was the amount you were bound to pay Ryan, and you were making no profit? A.—They knew they were not paying one dollar for the cruising of the land or for the examination of the land, they knew I had been there two or three times in connection with the thing, and they knew I was not receiving one cent from them in connection with it, and they could believe what they pleased, they could believe I was doing all that for my health or not, just as they pleased. They never asked me. I have told you every-

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thing I could tell if I stayed here four weeks.

Q.—Did you think they believed you were turning the property over to them without profit? A.—I did not think anything about it; if they asked me if I was making any profit I would have told them exactly as it was, and if they did not like to take the property others would have taken it.

Q.—Did you think they believed that you were turning over the property without the profit? A.—I did not think one way or the other or care.

Q.—Did you think they believed you were turning over the property without profit? A.—I have answered the question; I said I did not think one way or the other or cared.

Q.—That is all the answer I will get from you? A.—I think that is all the answer you require or should require.

Q.—If you thought I required a further answer would you make it? A.—That might or might not be the case.

Q.—Well, I do want a further answer? A.—I think you are very unreasonable.

Q.—Will you make a further answer? A.—No, I won't make any further answer than that.

Q.—Then did Ryan pay you the \$55,000? A.—That is a matter between Mr. Ryan and myself.

Q.—Did he pay it to you? A.—I decline to answer that.

Q.—I ask Your Honors to rule as to whether I am to find that out? A.—I refuse to answer.

JUDGE MacTAVISH: I think that question should be answered.

WITNESS: May it please Your Honor, that surely is a matter entirely for me, so far as I am concerned the company paid this money, if there is any responsibility I am the man who is responsible for it and willing to assume the responsibility. If the Kamloops Lumber Company or the Union Trust Company feel they have any case against me we will settle it, I am prepared to stand the brunt, and when we get through perhaps we will find a different complexion with respect to the transaction of the Kamloops Lumber Company than what has heretofore appeared.

MR. SHEPLEY: Q.—Did Mr. Peter Ryan pay you the money? A.—I decline to answer.

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MR. SHEPLEY: Will Your Honors rule specifically?

JUDGE MACTAVISH: I think it is a proper question, and I think it should be answered.

MR. SHEPLEY: Q.—Now, Mr. Fowler, once more, you are a public man, and you do not intend, I am sure, to arrogate to yourself the right to be the last judge of the relevancy of any Inquiry of this Commission?

A.—You have reminded me that I am a public man, and if it was not for that fact I would not have answered so fully as I have answered, I would test the question as to how far you have a right to probe into the private matters of any individual man on an Insurance Investigation, but I do not want to take that ground if I can help it, I do not want to take that ground, but when you push your questions too far, and if I have to take it I certainly will take it—

JUDGE MACTAVISH: You have already answered questions in the same direction in reference to this very thing, you have told us already if the Union Trust Company had asked you if you were getting anything out of it you would have told them you were? A.—I certainly would have; I have admitted Your Honor this, that this \$55,000 I was to receive from Mr. Ryan, and it is a matter entirely between Mr. Ryan and myself whether he has paid it or not. That might be a subject of litigation; why should I be called upon here to say that? Mr. Ryan has been upon the stand; he has given his evidence with respect to it I suppose—I do not know whether he has or not—I did not see all of his evidence—I don't want to be nasty about this thing at all, I want to give you—

MR. SHEPLEY: I have not used the word nasty at all? A.—I do not want to be stubborn, if you want to use that word instead.

Q.—I have not used that word, I have appealed to you here on as high a ground as I think I ought to put it upon, I have appealed to you to your sense of duty to yield to the ruling of the Commission in a matter where you have your own private right and judgment but to no greater extent than any other witness? A.—That is true, I am not claiming any immunity that should not be granted to any other witness, but I am claiming the right—

Q.—Supposing every witness that is put into the witness box chooses to say "I do not consider that question rele-

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vant and will not answer it," what would be the use of the Commission? A.—Surely a man cannot be compelled to tell everything he knows, everything about his private business, about something which has no earthly connection with it at all.

Q.—But cannot you quite see you are taking upon yourself to decide whether it has anything to do with it or not, the Commission is here for that purpose and there must be a final rule and it is quite impossible that either you or I should judge finally as to the relevance of anything; the Commission has to do that? A.—I am very anxious to bow to the decision of the Commission, but of course a man still has his right of private judgment. What is your question?

Q.—Did Mr. Ryan pay you the \$55,000? A.—He has not paid me all of it.

Q.—How much has he paid you? A.—I cannot tell you. I do not know. I have not an account here.

Q.—Can you find it? A.—I daresay I could.

Q.—Did you get that \$12,000 on the 9th February? A.—Yes.

Q.—You did not get any of Mr. LeVesconte's? A.—Do you know Mr. LeVesconte?

Q.—That is the reason I put the question that way. 26th March, \$5,000, did you get that? A.—I suppose I did. My signature is there.

Q.—9th April, \$9,000? A.—Yes.

Q.—1st May, \$5,000? A.—Yes.

Q.—11th May, \$11,000? A.—I presume so.

Q.—10th June, \$5,000? A.—Yes.

Q.—And the 15th July, \$1,000? A.—I do not fancy that has anything to do with it. That probably has not anything to do with this. That is on another matter I think. I do not think either of those have anything to do with it, although they may have. I would not be sure about that.

Q.—You do not think the one for \$1,000 on the 15th July, and the one for \$1,000, 15th November, both 1904, are connected with the Kamloops matter? A.—They may or may not be, but I do not think they are. There were other transactions between Ryan and myself.

Q.—Have you a method of ascertaining that? A.—I think perhaps I could find out.

Q.—Will you try and find out? A.—I will try and find out.

Q.—Find out how much Ryan paid you and whether these cheques are all

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on account of that transaction or whether come of them are not? A.—Yes.

Q.—Then have you made all the memo you need? A.—Yes.

Q.—Then you will hunt that up for us, please? A.—Yes.

Q.—Do you think Mr. Ryan has paid you any other sums than these cheques disclose on this account? A.—I do not know. There may be.

Q.—There may be sums that have gone in some other bank? A.—Yes, there is a difference between us as yet, but I could not tell you exactly the amount. Mr. Ryan and I have not settled the matters.

Q.—Then I would not expect you to say off-hand, but you will be able also to tell me to whom you paid out these moneys? A.—That is another question—whether I will tell you or not.

Q.—Oh yes, of course it is another question. A.—That is a matter we will have to decide first, whether I propose to tell you or not.

Q.—How long will it take to decide that? Can you decide that this afternoon? A.—I would like to hear you give me reasons why I should tell.

Q.—Well, I will tell you very frankly and very plainly. The money of the Foresters, into whose case we are inquiring, goes into the Union Trust Company, and is the money with which the Union Trust Company does all this business, including the Kamloops business. The Foresters' money to the extent of \$55,000 found its way to Peter Ryan's hands, and a certain amount, how much you are going to tell, found its way through his hands into your hands, and then the whole of that money, according to the bank account, has disappeared from your hands into some other hands, and we are proposing to follow the money of the Foresters as far as the money of the Foresters has gone. Now, I have put it to you very frankly. How does that appeal to you? A.—I do not see what I have to do with that.

Q.—You do not see what you have to do with that? A.—No, not at all. I was not the agent for the Foresters in purchasing this property. I bought this property and sold it to them. It does not make any difference what I bought it for—that is my contention—it does not make a particle of difference what I bought it for. I sold it and transferred it to them for \$225,000. They made a mighty good thing and a bargain, too, according to their own statements. They made

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\$70,000 out of that. If that property had been managed properly they would have made more than they did, out of the Great West Land Company, if there had not been the gross-mismanagement with respect to it, caused by the interference on the part of the Union Trust officers here who were directors of the Kamloops Lumber Company and had a majority on the directorate. Just to show you—

Q.—That is not what we are discussing. A.—I think it has a great deal to do with it.

Q.—I do not think so. A.—I say I sold that property to them for a certain figure, and it did not make any difference whether I got a profit out of it or not. That is my contention. If I had been the agent of the company that is another matter entirely, but I was not.

Q.—I am going to read you what Mr. Foster has said, because I want to appeal to you from every standpoint that I think will appeal to you as an honourable man. Mr. Foster's examination reads as follows:

“Q.—We have been told, I suppose with accuracy, that Mr. Foster was entrusted with the negotiations for purchasing? A.—Well, that appears on the document. Whatever the documents say—they speak for themselves.

“Q.—You do not dissent from that? A.—Well, my general idea of it is—I have not refreshed my memory particularly—I am speaking from a pretty good knowledge of what took place—that Mr. Fowler procured an option on these properties from Mr. Ryan and transferred that option to the Union Trust Company, or the Kamloops Company, whichever it was.

“Q.—He was procuring that option in pursuance of the negotiations between you? A.—Absolutely so.”

That is what Mr. Foster says. A.—I do not care what Mr. Foster says or anybody else says. I say I got that option on the 24th October.

Q.—You had not waited until I finished the question. A.—You finished reading and looked up at me, and said that was what Mr. Foster said, as though that settled the question as far as I was concerned. I am another individual entirely.

Q.—I am going to appeal to you on this ground; if a witness who is in the box has indicated that you were an agent in procuring that sale, that would be another phase of it? A.—How is that?

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Q.—If another witness has assigned to you the position of agency— A.—Does that make me an agent.

Q.—No, but does it make any difference as to our inquiring? A.—But I am telling you I was not an agent.

Q.—Must we take your word in preference to his? A.—Must I be taken to be an agent because he suggested that? I cannot help what he said.

Q.—I am trying to make you see that I am justified in making the inquiry, having regard to the evidence the witnesses have given? A.—You have a right to ask me if I am an agent. You have not a right to assume I am because a witness says so.

Q.—Am I to be bound by what you say? A.—I do not propose to be bound by whatever anybody else says.

Q.—I am not making any success in appealing to you on that ground. A.—Do you suppose you would get me to admit I was an agent when I was not because you are appealing to me on any ground?

Q.—You are not thinking now? A.—Yes, I am thinking.

Q.—It is not what I am driving at at all. I am trying to get you to see the propriety of my pushing the inquiry. A.—I have not objected yet to you pushing it.

Q.—I am afraid we won't find any common ground to stand upon. I won't waste time. Will you answer the question or not? A.—As to whom I gave the money?

Q.—Yes. A.—No, I will not. That has nothing to do with the case.

MR. SHEPLEY: Will your Honours rule upon that?

WITNESS: That was my own money and I was not an agent of the company, and the documents will show I was not an agent of the company, and I appeal to the documents to show it.

JUDGE MacTAVISH: Up to this point the evidence is the other way.

WITNESS: May it please your honor, I swear absolutely—

JUDGE MacTAVISH: I am not doubting that in the least.

WITNESS: I swear absolutely that on the 24th October—let me recall to your honors' memory what I have already said—on the 24th October I procured the option from Ryan, without having in mind the Union Trust Company, or any question. It was for the purpose of selling this property to a man named Hopper of

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Michigan. That sale fell down. When I was unable to place the property with Hopper I went to the Union Trust people and laid the matter before them; that during the time the negotiations were pending with myself, they had nothing to do with Ryan, never went near him. When the negotiations were pending the time of my option expired. I accepted the option myself, not directed to do so by the Union Trust Company or any individual in the company; accepted the option and became responsible to Ryan for the purchase price of it. After that, and some weeks after that, the Union Trust Company took over my option from me, took over this property from me. That is a fact. If you can make an agency out of that I should like to see you make it.

JUDGE MacTAVISH: We are not making any agency out of it. We are not dealing with that question at all; we are not passing upon it, but evidence has been given here from which it may be inferred that the \$55,000 in question, is money to which the insurance company whose affairs we are now investigating may have a right—and we are not deciding they have a right at all—in fact we are not deciding any issue between any company or individuals, or between individuals. We are simply conducting an inquiry into the affairs of the insurance company, to find out if we can where their money is, where it has gone to, and how it has reached its destination, and we would not be doing our duty under the Order in Council which appointed us, unless we followed it to a conclusion and where, as in this case, there is evidence both ways, witnesses on both sides—put it that way if you like—our duty is not to stop the inquiry, but to go on with it.

WITNESS: Supposing I am not an agent—your honors surely will tell me that if I am not an agent of the Union Trust Company then it was my money. Then the documents will show whether I am an agent or not, and if they can produce one tittle of documentary evidence that I was an agent of the Trust Company in the Kamloops matter I will give you all the information you want as to where the money went to. If you can show one tittle of evidence I was an agent—and I claim that unless you show I was an agent, somebody standing up here and saying it was is not evidence

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of it. Let them stand up and show how I was an agent. I say I was not; and the documents show it, and I was acting absolutely and entirely for myself. I would regret exceedingly to put myself in opposition to your honors' ruling in this matter. It is painful to me as a barrister, as well as occupying the position I do as a public man, but I say I was not an agent, and not being an agent I have no right to be called upon. I understand the bank books and my account in the bank was brought up here and exhibited and published all through the papers. If a man buys a trifling present for his family that must be advertised all over the country. It seems to me an outrage. We have gone back to the days of the Star Chamber and the Inquisition in this country.

MR. SHEPLEY: Q.—If you had been here in obedience to your subpoena and given us the information you were entitled to furnish your private affairs would not be gone into. A.—It was not necessary to take up my private affairs. You knew I would be here and the whole thing was a grand stand play. If you want to wake this matter up, I want you to understand the end of it is not with this Commission. There is a tribunal before which it will be discussed and the true inwardness will be shown. It will be shown why this very severe investigation with respect to the Foresters was because it happened, forsooth, that there were some Conservative members of Parliament in connection with this thing. That is why you are pursuing this like a sleuth hound. That is why we see all this vindictiveness. I do not say the Court is lending itself to it, but I can quite understand the influence the Crown Prosecutor or Crown officer would have. Under the circumstances I am not finding any fault with respect to the matter; but I quite understand it, and the public are talking as to the indifference between the officer doing the prosecution in connection with this company and the prosecution of another company where the head of it is the great financial backer of the Liberal party in this country. If you want to get some truth—

MR. SHEPLEY: Does your lordship think it is useful to pursue this?

JUDGE MAC TAVISH: No.

WITNESS: I beg pardon for this digression. Sometimes a man's feelings over-power him.

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JUDGE MAC TAVISH: You have put it very strongly, but we must get back to the inquiry.

WITNESS: Yes. If my learned friend can show that I was in any way in connection with the Kamloops transaction an agent of the Kamloops Company, then I will cough.

MR. SHEPLEY: At page 2403 of the printed evidence Mr. Stevenson was examined as follows:

"Q.—Was Mr. Fowler taking part in the plan making that was going on? A.—Mr. Fowler was to be represented with McCormack and Irwin in the 49 per cent. The Union Trust Company was to hold the 51 per cent.

"Q.—Then who was to act for you all in negotiating the transaction and bringing it about? A.—As I understand it Mr. Fowler was to secure the option and Messrs. Irwin and McCormack were to go and examine the land; that is the timber; to see if the timber as represented was there, and generally overlook the condition to see whether it was a desirable project to engage in.

"Q.—You say Fowler was charged with the duty for you all of negotiating the operation as you called it? A.—That was my understanding that Fowler was acting with us and for us.

"Q.—You were not taking part in the negotiations directly yourself? A.—Not at all.

"Q.—Nor anybody else? A.—Not at all. We were entrusting that to Fowler.

"Q.—Who had introduced the proposition? A.—He had introduced the proposition. We had agreed to furnish the money if the proposition upon investigation proved to be satisfactory upon the conditions I have named."

A.—Does that make me an agent? How can you make me an agent if I am not one?

JUDGE MAC TAVISH: We are not deciding the question of your agency. There is the sworn statement before the Commission that you were an agent, not that we believe it or disbelieve it. And you make a different statement—that you were not an agent. We are not believing or disbelieving that one way or the other in the meantime, but the point is that there is the statement on the record that you were an agent, and under those circumstances you must see—

WITNESS: Would not you decide at first whether I was an agent or not

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before you could compel me to tell what I did with this money?

JUDGE MacTAVISH: That is reasoning in a circle, because the question whether it is your money or not is open, so far as the evidence before the Commission is concerned.

WITNESS: If I am an agent it was not my own money, and if I am not an agent is it not my own money? Then if it is my own money, what business is it of this Commission what I did with it?

JUDGE MacTAVISH: That is not the point at all.

WITNESS: Then don't you have first to decide whether I am an agent?

JUDGE MacTAVISH: No. If that question is open on the record as to whether you are an agent or not then I think the inquiry must be made.

WITNESS: I cannot take your honor's view of the matter. It seems to me that if I am an agent—

JUDGE MacTAVISH: In one view of the evidence this is Foresters' money. You will admit that, and you should also admit that the inquiry must go in the direction indicated.

WITNESS: Yes, but—

JUDGE MacTAVISH: Then we would be deciding that question now if we held that the inquiry was not to proceed any further on that line.

WITNESS: Don't you have to decide that point before you can compel me to give an answer? Supposing Mr. Shepley were to ask me about some other money altogether outside of this, and I were to raise the question that that was my own money, and therefore he had no right to ask it; would he not be obliged to show it was not my own money, and I was an agent? It seems to very plain. I cannot understand how your Honors can punish me for refusing to answer that question, and I challenge Mr. Shepley to produce one solitary tittle of evidence outside the surmise or thinking of Mr. Stevenson, or Mr. Foster's statement—but I do not think Mr. Foster's statement bears it out—I challenge Mr. Shepley to produce one bit of documentary evidence with respect to it. There you have the first option 24th October. You have my acceptance of the option. You have the minutes that were kept in connection with this matter open to you. Let Mr. Shepley take time to produce those minutes if he will, and if it is there stated I am an agent, or if I am instructed to buy this or that, then all right, I will answer the question, and consider I

have a right to answer the question, but I do not consider I have a right to answer a question about any amount of money that came into my hands lawfully and properly. I am not an agent of the company. All the documents Mr. Shepley has in his possession—if they would bear out his contention he would be very willing and very glad to produce them, but he cannot produce them.

JUDGE MacTAVISH: The ruling is that any question as to the disposition of this \$55,000 or any part of it must be answered.

MR. SHEPLEY: I should not expect you to be able to tell me off-hand, but you can prepare a statement of that for us between now and the time that we meet again, if you will—a statement of the disposition that was made of so much of the \$55,000 as Mr. Ryan paid you, with the vouchers. A.—Yes.

Q.—You have added the vouchers to your memorandum? A.—Yes.

Q.—You have preserved your cheques of course? A.—I would not say as to that whether I have or not. I will endeavour to hunt them up.

Q.—Have you any other papers in connection with the Kamloops matter or the subsidiary matters, the Kamloops Company, the Okanagan Lumber Company—have you any correspondence in connection with that, or the Shuswap purchase? A.—Well, I may have.

Q.—Just make notes of Kamloops, Kkanagan and Shuswap, including any estimates or quantities of logs, or anything of that sort? A.—In fact anything in connection with it that I have.

Q.—Yes. A.—I will.

MR. SHEPLEY: It is perhaps right that we should determine what we will do in the future with regard to this. I shall of course have a little more evidence, and my suggestion is that we should take this matter up and complete it at the time when we are prepared to take up and finish the insurance branch of the Foresters, which we thought we would do at Ottawa.

Q.—It will be as convenient for you to be at Ottawa as here? A.—Yes, of course.

Q.—And if you will leave me an address with which I can communicate, I will try and consult your convenience? A.—Yes, my address will be Sussex, N.B., and any time you wire me give me 48 hours' notice.

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JUDGE MAC TAVISH: Oh yes.

MR. SHEPLEY: Q.—As fast as you get the papers together that you are going to get, if you can send them to me it will be a great accommodation? A.—You want them sent ahead?

Q.—We will save so much time by it? A.—Yes.

MR. SHEPLEY: About the future I understand your Honors intend to sit in Montreal the first three days next week.

JUDGE MAC TAVISH: Yes. Is that convenient to all parties?

MR. HELLMUTH: It does not suit me at all, but it must suit me. You will sit three days but not on Friday?

JUDGE MAC TAVISH: No. We think under the circumstances we will sit on Monday commencing at 12 o'clock in the Court of Appeals Room in the Court House at Montreal.

MR. HELLMUTH: Have you any future sittings after the three days?

JUDGE MAC TAVISH: I think we may safely say that after that week we will go right on from day to day.

MR. HELLMUTH: One has to make one's engagements fit in with the Commission, but I would like to know whether you are going after that to sit before Tuesday of each week. It makes a difference in arranging for future engagements.

JUDGE MAC TAVISH: I think when we adjourn at the week end we should meet on Tuesday of the following week.

MR. HELLMUTH: I think if you can give us Mondays it will facilitate.

MR. SHEPLEY: I would not offer any suggestion as to that, but I am anxious to see the finish.

JUDGE MAC TAVISH: I think we had better make that statement now, and if any occasion arises like the present, we will meet on Monday. We will adjourn on Wednesday afternoon till the following Tuesday.

(The Commission adjourned at 4.30 p.m. on October 12th to meet at Montreal, October 15th, at 12 a.m.)

EIGHTY-SIXTH DAY.

MORNING SESSION.

Montreal, 15th October, 1906.

SUN LIFE ASSURANCE COMPANY.

MR. SHEPLEY: Perhaps, your Honors might think it convenient before we commence that we should fix

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the hours of sitting here. I do not know what our brethren in the Province of Quebec think about working long hours or short hours, but Mr. Smith is here, as well as Mr. LeBeuf, and I am quite prepared to accede to anything that is considered convenient here.

MR. LEBEUF: I do not think we will interfere at all. Mr. Shepley has a lot of work to do to prepare every morning, and we will be satisfied with any hour.

MR. SMITH: We will be willing to accept any hour Mr. Shepley might suggest.

MR. SHEPLEY: Perhaps the hours we have been sitting heretofore will be as convenient as any. From half-past ten until one and from two until half-past four.

JUDGE MAC TAVISH: Yes. Then we will see that these hours be observed.

MR. SHEPLEY: Then, your Honors, I propose this morning that we should take up the case of the Sun Life Assurance Company and the first witness I shall call will be Mr. Robertson Macaulay, President of the Company.

ROBERTSON MACAULAY, sworn, examined by

MR. SHEPLEY: Q.—You are the President of the Sun Life Assurance Company of Canada? A.—I am, sir.

Q.—You have been connected with the company since its incorporation and organization? A.—No sir, since 1874.

Q.—And you have had considerable experience connected with Life Insurance matters? A.—I have been in the business since 1856. You may draw your own conclusions from that.

Q.—Since 1856, and actively connected with insurance matters during the whole of that time? A.—During the whole of that time.

Q.—Has life insurance been your principal occupation or have you had divergence? A.—Fifty-two years occupies the major part of a man's life.

Q.—And it has been your pursuit since you have been engaged in it? A.—It has been my pursuit.

Q.—You are, I suppose, familiar, with the history, the incorporation of the company? A.—Fairly.

Q.—The company seems to have been incorporated by a special Act of the late Province of Canada in 1865? A.—Yes.

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Q.—It has had some changes of name, but no change in its corporate existence. There have been no transactions of interest, or anything of that sort, always been the same company, but with a different name A.—The same company.

Q.—It has been the Sun Insurance Company of Montreal, the Sun Mutual Society of Montreal and it is now the Sun Life Assurance Company of Canada? A.—Yes. Would you pardon an interruption? Although it starts to date from 1865, it did not begin work till 1871.

Q.—I was coming to that in a moment. As originally incorporated it seems to have been incorporated to transact other business besides life insurance? A.—Quite a variety.

Q.—Fire insurance, marine insurance, guarantee insurance, accident insurance and life insurance? A.—Yes.

Q.—What branches of insurance has the company followed? A.—Life and accident, and lately only life.

Q.—When you say lately, when did you discontinue accident insurance? A.—Well, now, I cannot give you the date.

Q.—1894, was that? A.—Oh, before that, some six or eight years.

Q.—1894, of course, was 12 years ago? A.—I forget now the exact date. It is some 6 or 8 or 10 years ago.

Q.—And you have still some accident policies on foot, but very little? A.—In this way, we issued what we called policies carrying an accident feature. We cannot cancel them and they won't terminate till they run out; therefore we keep track of them, but it is a mere bagatelle.

Q.—They are a mere bagatelle as indeed your returns of business for the last year show? A.—Yes.

Q.—And we may for the purpose of this inquiry eliminate accident insurance altogether and confine ourselves to your business as a pure life insurance business? A.—Quite so.,

Q.—Then there are two or three provisions in your original act of incorporation—which your Honors observe is the 28th Vic., Chap. 43—that I want to call your attention to and ask you a question or two about?

MR. LANGMUIR: Have you a printed copy?

MR. SHEPLEY: I have only the one copy, I suppose there are other copies.

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WITNESS: I have a copy here which I will let you have. It contains the amendments as well.

Q.—I see the original provision in the second section of your act was that you had an authorized capital of \$2,000,000? A.—Two million dollars.

Q.—And that you were permitted by your act to increase to four million dollars upon receiving certain sanctions at the hands of your shareholders? A.—Yes.

Q.—Then following that subject, in 1871 an alteration was made. Ap-just before your organization in 1870 by 33 Victoria, Chapter 58, you had parently in 1871 or 1870 I should say, some alterations made in respect of your capital stock? A.—Yes.

Q.—You were perhaps interested in this legislation at the time it was obtained in 1870? A.—No.

Q.—You came in after that? A.—In 1874.

Q.—I thought you said in 1871 when I asked you first? A.—No, 1874.

MR. SMITH: The company commenced business in 1871?

MR. SHEPLEY: Q.—Then apparently in 1870 the company was contemplating carrying on a general business of insurance and a separate branch of life insurance? A.—Yes.

Q.—And the stock was divided? A.—Yes.

Q.—In the general branch there was to be a present authorization of a million dollars with a possibility of increase to two million dollars. A.—Yes.

Q.—And the same in the life insurance branch? A.—Yes.

Q.—One million dollars and that million had to be set apart? A.—Set apart.

Q.—Kept separate from the other? A.—Yes.

Q.—Then I will go on with the discussion of the Act before coming to what you have done in respect to the capital stock. Then I pass over the provisions as to calls and forfeiture; the 6th section is the section which defines your insurance powers. You had power originally to make contracts of insurance against loss or damage also to insure ships; that is to the business of marine insurance. Then you had a right to do the business of life insurance, guarantee insurance. Then you had power to grant annuities, to purchase reversionary interest and to cause

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yourselves to be insured against any loss or risks that you might have incurred. That is you had powers of reinsurance? A.—Yes.

Q.—And generally power to do and perform all other matters and things connected with and proper to promote these objects? A.—Yes.

Q.—Do you remember what your original power to hold real estate for the purposes of your incorporation was? A.—I think it was limited to an annual value of five thousand dollars.

Q.—Then we will take that. That was increased by the Act 33 Vict. to \$20,000? A.—Yes.

Q.—That is you had a right to hold real estate for the purposes of your incorporation to the annual value of \$20,000? A.—Yes.

Q.—Then I see you went to the Province of Quebec in 1888? A.—Yes.

Q.—Some doubt seems to have existed with regard to the authority of the Parliament of Canada to define your land holding powers? A.—Our lawyer raised some point, and I cannot now recall the exact point, but he thought it would be as well to go to Parliament to set at rest certain matters.

Q.—You went to the legislature of the Province in the first instance? A.—Yes.

Q.—In 1888? A.—Yes.

Q.—And after reciting the doubt with respect to the power of Parliament, the first section of the Act went on to provide that in addition to the powers already granted by the Act of incorporation it should be lawful to acquire and possess real estate in the Province of Quebec to the value but not exceeding thirty thousand dollars per annum? A.—Yes.

Q.—You remember that? A.—Yes.

Q.—Can you say now whether the intention was to add the \$30,000 to the \$20,000 you had already from Parliament, or to make the whole \$30,000? A.—Only \$30,000, as far as I remember.

Q.—The Act is not happily expressed to carry that out? It would seem to have been intended that you could have the \$20,000 you had in your original Act and another specific \$30,000 under this Quebec Act. Nine years later in 1897, you went to the Parliament of Canada, and do you remember what provision you obtained

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then? A.—Not without looking at the Act itself.

Q.—60 and 61 Vict., chap. 82, section 2, you obtained power to hold real estate in the Province of Ontario to the annual value of \$20,000; in the Province of Quebec to the annual value of \$40,000, and in each of the other provinces of Canada to the annual value of \$10,000. Perhaps you recall that as I read it to you, page 28 of the pamphlet? A.—It is not in this book.

Q.—This book does not contain the last Dominion Act, and that is the holding power as to real estate that your company now enjoys? A.—Yes.

Q.—Then passing on with the clauses of the original charter your Board was to be composed of nine directors, one of whom was to be chosen president and one vice-president. Has that always remained the same? A.—That has always remained the same.

Q.—Then there was a provision for election of directors, and then there was a provision that before the Company should commence the life department of their business, \$800,000 should be subscribed for, and an additional sum of \$100,000 paid up and invested in securities of the Province, for the special security of the assurance on lives to be effected with the company. That I suppose in your history has ceased to be important, as you are governed by provisions— A.—Entirely.

Q.—Governed by provisions of the later legislation? A.—Yes.

Q.—We will pass that over and will not take time over that. Then a provision for the general meeting of shareholders and for the voting. Then you were required by the 13th section at the annual general meeting, and before the shareholders then assembled, to exhibit a full and unreserved statement of the affairs of the Company and the funds, property and securities, showing the amount in real estate in bonds and mortgages, or other securities, or any public debt or other stock and the amount of debt due to and by the said company. That provision as between the Board and shareholders is still in force? A.—In force, yes.

Q.—And as we trace your financial history you ought to be able by collecting together your annual statements to get a full financial account of your history? A.—Yes, quite so.

Q.—Or a full account of your financial history? A.—Yes.

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Q.—Then the powers of the Board of Directors are provided for in the 15th paragraph. Then the 16th paragraph makes provision in respect of apportioning profits to policy holders? A.—Yes.

Q.—We will read that because that is important. Do you know of any alteration in your powers, your statutory powers, of the provisions of that section, or is that the section you have been working under ever since the company was organized? A.—As far as I can recollect there has been no statutory change.

Q.—The directors have from time to time perhaps made special provisions by by-law or otherwise, in respect of particular declaration of profits? A.—Yes.

Q.—But you know of no statutory provision beyond this one? A.—No.

Q.—“It shall be lawful for a majority of the said directors, if they shall deem it for the interests of the said company, to return to the holders of policies or other instruments, such part or parts of the actual realized profits of the company, in such parts, shares and proportions, and at such times and in such manner as the said directors may deem advisable, and to enter into obligation so to do, either by endorsements on the policies or otherwise, provided that such policy holders or the holders of such instruments shall not be liable for the debts of the company beyond the premium or premiums which may have been paid up by him, her or them? A.—Yes.

Q.—That seems to leave it entirely to the discretion of the directors whether they will ever apportion profits at all. You observe that? A.—Yes. That is as it should be.

Q.—At all events that is the way it is? A.—Yes.

Q.—And it also makes it discretionary in the directors if they decide to apportion profits to policy holders to determine what proportion of profits shall be so allotted? A.—Yes.

Q.—And that I suppose you would say also is as it should be? A.—Yes, as it should be.

Q.—Why do you say as it should be? A.—Because I know of no other party in whose power it could be left.

Q. That is a generalization. Why should it be left with the directors? O.—Because with them the entire discretionary power of management is left.

Q.—Do you think that it ought to be left to the discretion of directors, if

the directors issue policies in respect of which profits are promised to be allotted? A.—Yes.

Q.—You think even then it is proper to put that in the discretion of the director? A.—In no other power as far as known to me, should it be left.

Q.—In making that answer, do you take into consideration as a factor the element of competition with other companies which allot profits? In other words, do you think—A.—No I do not think so—not in any properly managed company.

Q.—What I mean by that was this: Possibly the exercise of the discretion of the directors towards declaring and paying of profit to policy holders would be more or less influenced by the policy of other companies which were competing with them? A.—Oh naturally. That is to say, the inception, to begin with, comes through competition, from what other companies do, but whether the amount of profit any company shall divide is determined by competition, is a matter I do not know. I can only speak of the Sun Life. The Sun Life does not apportion profits because of what is being done by other companies.

Q.—I can appreciate that. But is the element of competition the element which is to be taken into consideration in entrusting directors with responsibility and discretion? A.—Well, that is a matter of opinion.

Q.—What is your opinion? A.—It is a matter of law. We have our charter and the powers, and we adhere to them, as to whether that should be done or not, is a matter for Parliament and not for me.

Q.—Supposing you, company A, and another company B, and another company C, have all made large profits. Supposing you are all in the position of exercising a discretion as to whether you will share these profits with your policy holders or not, do you think that the discretion which you would exercise would be at all controlled or affected by the existence of competition in that way? A.—Yes, it would be.

Q.—That is what I have in my mind as what would be natural to expect? A.—Yes, naturally it would come into consideration.

Q.—Each company would desire for its own benefit to be at least as generous as the other companies if it could reasonably be? A.—Yes with that

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qualification, but that is a very important qualification.

Q.—You would not think the effect of competition would warrant you in making an indiscreet allotment of profits to policy holders? A.—That is a matter that has never entered into our consideration. Other companies, weak perhaps, and anxious to compete with strong companies might do it. We have never been so tempted and have never done it.

Q.—You have always exercised discretion? A.—Every company must answer for itself, I can speak for ours.

Q.—What are the elements then upon which in your view the directors should act? What are the elements of the problem which they have to solve when they are to determine whether they will apportion any profits, and if so what? A.—Simply the surplus.

Q.—Simply the amount of the surplus? A.—The question of surplus.

Q.—The amount of the surplus? A.—Yes. No surplus, no profits, large surplus, large profit.

Q.—Little surplus, little profit? A.—No surplus no profit, and little surplus little profit of course. That is the thing in life insurance just the same as in any other business.

Q. I see your charter also differs in so far as we have up to the present moment examined it, also differs from those of some other companies in not fixing a proportion as between the shareholders and the policy holders in which profits must be divided? A.—No, there is no limitation there.

Q.—You may pay, even if you have large profits, if you choose to exercise your discretion that way, you may give them all to the shareholders and none to the policy holders? A.—I am not prepared to say.

Q.—It must go that far? A.—No, I am not prepared to go that far, for the very reason that I have never yet met with a man who would be so unreasonable. That is, I have never met with a sane man who would act so unreasonably.

Q.—They say that every proposition must stand the test of the extreme case, and I suppose if you have an absolute unfettered discretion, your discretion might be exercised, and perhaps it would be unreasonably or capriciously, but it might be exercised in the way I have put to you? A.—That all the profits should be given to the shareholders and none to the policyholders?

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Q.—Yes? A.—I never heard of such a case, and I do not wish to answer it.

Q.—The fact that you do not want to answer I think answers it sufficiently. You do not think, having regard to the interests of the company, that a reasonable man— A.—The man who did that should be sent down to Verdun.

Q.—I do not happen to be acquainted with Verdun, so I do not know where it is. I see the statute itself furnishes a spur to the directors, or rather gives them a reason for exercising discretion in favor of an allotment, "If they shall deem it for the interests of the said company?" A.—What section?

Q.—Section 16, page 13 of the pamphlet, "It shall be lawful for a majority of the said directors, if they shall deem it for the interests of the said company?" Do you see it in the 16th section? A.—"If they shall deem it for the interest of the said company"—yes.

Q.—What do you conceive that to mean? Do you mean the interest of the shareholders? A.—That question has never been propounded to me before, it has never been considered by me, and has never been submitted or discussed by the Board. It is a new thing altogether.

Q.—You see it plainly on the face of the statute? A.—Well, it would be in the interest of the company to divide profits when it had profits to divide. It would be in the interests of the company to hold profits when it would be dangerous to do so.

Q.—When it would be dangerous to divide, do you mean? A.—Yes, dangerous to divide.

Q.—What I am concerned with at the moment, is to know what you think the statute means by the interest of the said company. Does that mean the interest of the shareholders? A.—No sir.

Q.—Who are the companies, if the shareholders are not? The policyholders are not members of the company? A.—Well, these are legal matters that I hardly think it is proper to urge upon me to answer.

Q.—I will tell you why I ask it, because you have been active in the management of the company. Your views with respect to what the statute requires and calls for, have no doubt had a very great deal to do with what you have actually done? A.—This has never had any influence upon our

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decisions, it has never been considered.

Q.—You have never considered whether the payment of a portion of the profits to policyholders, was for the benefit of the company, do you say? A.—Yes, we have, but in this case that particular part of that section has never been discussed or considered, but as to whether it would be unwise or wise to divide profits is always considered.

Q.—The statute says that in order to your exercising your discretion in that way you are to deem it for the interest of the said company, and I want to know whether in that connection you consider the policyholders part and parcel of your company or not? A.—As to that I should consider that to be really a legal question that I have no right to deduce. We have never considered that question.

Q.—I quite appreciate that. Perhaps you have sufficiently answered it if you say it has never been considered? A.—We have never made any separation in our dealings further than the allocation of the profit belonging to shareholders, and the profits to policyholders, but as to whether the policyholders were part and parcel of the company, we have never taken it up. We have practically considered—I do not mean to say technically or legally, I am not going to say whether they are part or not—I can only speak for myself, but I have never considered them otherwise than a part of the company the living part and the furnishing part.

Q.—That sounds very reasonable. Would it be fair to put it this way, that as far as you personally were concerned, that you felt that you had to consult the interest of policyholders and be fair to them as well as the interests of shareholders? A.—Will you allow me to use my own way of answering that? It is perhaps unfair to tell you what I am going to tell you.

Q.—Unfair to yourself or to me? A.—Unfair to me and to my associate directors. From the very first I have acted on behalf of policy holders, I should say, given him 75 per cent. of my consideration. Every time that a question between the two came up, I have stood invariably for the policy holders, and I have been censured time and again for bestowing so much thought on the policy holders.

Q.—You have answered it in your own way and I think you have fairly

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answered it. So far as you are concerned you think that you ought in all these questions consider what is fair to policy holders as well as what is fair to shareholders? A.—Invariably.

Q.—But you do not go into it microscopically from the standpoint of the precise working of the section? A.—Never considered it in that light.

Q.—What view have you acted on as to actual realized profits—"such part or parts of the actual realized profits." What do you take that expression to mean? A.—That would simply be the profits after making out the balance sheets of the actual liabilities and the assets and all the contingent accounts. Whatever the surplus is, we would divide the reserve in a certain proportion.

Q.—Do you view that as looking towards an annual ascertainment of profits? A.—An annual ascertainment.

Q.—That is at the end of any particular year you ascertain what the actual realized profits up to the end of that year are? A.—We do.

Q.—Or perhaps it would be better to say the actual realized profits for that particular year? A.—No, not for that particular year. We cannot do that without taking the whole. We bring forward the balance in the previous year.

Q.—And add the gain upon the operations of the year? A.—Add the gain.

Q.—And then you arrive at the actual realized profits? A.—Yes.

Q.—I shall have to return to it in much more detail a little later on, but just at this point I would like to have it on record. What is your profit declaring period for policy holders, or what are your periods? A.—Every five years, that is we value every five years, but a very large proportion of our policies are deferred.

Q.—That is Tontine? A.—Yes.

Q.—And deferred? A.—Yes.

Q.—What are your deferred periods? How do they run? A.—That depends entirely on the assured.

Q.—But you can tell—I do not want it exactly at all, but what are your periods? A.—To tell you the truth I am not a bit too conversant with these details. The actuary is the one to go into that.

Q.—Have you ten years, fifteen, thirty years? A.—I do not think we have any short of ten, but I can hardly go into that. Our actuary will tell you, but we have definite periods.

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Q.—I will not ask you if you do not feel clear about it? A.—We have definite periods, ten, fifteen and twenty.

Q.—Not longer than twenty years, do you know? A.—That I cannot say. I have a lot of business to attend to without going into the actuarial.

Q.—Is the bulk of your profit sharing business upon the deferred plan? A.—I think so.

Q.—Perhaps three-quarters of it or 90 per cent. of it? A.—I would not like to say, I presume we have something like 75 or 80 per cent.

Q.—Mr. T. B. Macaulay says 68 per cent.? A.—I knew it was somewhere in that vicinity. These are points I have not gone into myself personally.

Q.—When you are dealing with actual realized profits at any time, you are of course governed by the terms of your policies, if they are quinquennial or deferred, you have actual realized profits as at different periods for the different classes of policies? A.—In the laying aside?

Q.—Yes, in this computation of what are actual realized profits? A.—Realized profits would be the realized profits.

Q.—I know. But as to the division or allocation,—as to the division you have to be governed of course by the provisions of your policy? A.—Yes, that is in the division.

Q.—Then you determine the parts, shares and proportions in which you will return profits to the holders of policies, and you determine also the time and the manner and then you bind yourselves either by obligation to endorse on the policy or otherwise? A.—Yes.

Q.—Then I won't trouble you further with regard to that at the moment. You think I should perhaps ask your actuary anything further in detail? A.—Yes, he can give you the information.

Q.—That is not at all unreasonable. It could not be expected that you would remember or bear in mind all these details. Then there is a provision as to the meetings of the Board. I need not deal with that. And there is a provision for compensation to the directors, and I believe the directors have always been compensated? A.—Well, yes, latterly. The first few years they got nothing.

Q.—Then there is a provision for the execution of policies and of cheques and other instruments. Then a provision for the transfer of shares. You retain the control of the transfer

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of shares until they are paid in full. A.—Until they are paid in full.

Q.—Then there is a provision as to fire insurance I won't trouble about. Then the 28th clause may be important. "The corporate rights hereby conferred shall at all times hereafter be subject to the provisions of any general enactment hereafter to be passed with reference to insurance companies or the business of insurance?" That is at page 16 of the pamphlet? A.—Clause 38?

Q.—"The corporate rights conferred shall at all times hereafter be subject to the provisions of any general enactment." You are familiar with that clause, are you? A.—No, I am not, I must confess. I do not remember ever reading it before.

Q.—What I wanted to ask you is this: has your board viewed the matter in this way: That when there is a general provision, for instance upon the subject of investment, that your particular provisions are overridden, or do you treat them as being merely added to? A.—Only added to, sir.

Q.—That is the way you have dealt with the subject practically? A.—That is the way we have considered it; that is the way our lawyers have informed us on the statute.

Q.—I thought you said you had not noticed it or considered it before? A.—We have always thought that the insurance act simply adding to what we had in our original charter.

Q.—That is the view you have taken? A.—Yes.

Q.—I do not think we need deal with the Act 33 Vict., Chap. 38, further than to know that it makes the provision with respect to the capital to be embarked, or possible to be embarked in the general branch and in the life branch to which we have already referred, and that it makes certain provisions as to deposit for the purpose of obtaining a license, those provisions are now superceded by the general act. You are not acting under that provision in making your deposit and obtaining your license, but are under the general provisions of the insurance Act? A.—We are making our deposit under the General Insurance Act, but the Insurance Act was not passed till later on, consequently it could not supercede anything we had here.

Q.—At all events the provisions of the Insurance Act are so much more advantageous than these provisions,

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that you would probably comply with those provisions rather than with the other? A.—No. A Scotchman never likes to give up what he has, and what we have we like to hold.

Q.—I suppose a Scotchman like anybody else wants to do the best he can for his company? A.—Hold on to what we have and get whatever more we can, and so it is with this.

Q.—We have observed—perhaps we have only struck exceptional companies,—we have observed that the making of a deposit with the Dominion Government is rather a favorite with insurance companies generally? A.—Well, it was not so viewed when it was first introduced. I remember that there was very serious protest against it by the Canada Life especially.

Q.—I do not know that I will trouble you with that Mr. Macaulay, because we will know accurately in the course of the enquiry just what you have deposited and whether you have deposited under the terms of the general Act, or confined yourself to the deposit required by this clause. We need not waste time over that just now. Then we come to the provision which also ought to be noted, separating the business of life and accident from the general business, and making a particular portion of the stock applicable only to that branch. Then there is a provision against mixing the accounts of stock or of expenses, profits and claims, losses, liabilities and assets under each of the said branches, and every investment is to specify over the branch the investment is made. Then the capital stock subscribed and allotted to each branch is to be liable only for the expenses, losses and liabilities incurred by that branch. Then the 11th section is a section to which I refer you. "No director—we have found that in other charters—no director or other officer of the company shall become a borrower of any portion of its funds, nor become surety for any other person who had become a borrower from the company, nor shall one branch borrow for the purposes of the other," etc. The last clause does not give us any trouble, because you have not had separate branches. I suppose you have always had that clause in your mind as governing your duties as directors? A.—Yes, it has never been contravened to my knowledge.

Q.—Then we should also note the 14th section, which, as has already been said, enables you to hold real

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estate to the annual value of \$20,000? A.—Yes.

Q.—By the Act 34 Vict., Chap. 53, the intermediate change in name was made. You became the Sun Mutual Life Insurance Company of Montreal, but the rates claims, assets or liabilities were to remain vested in or obligatory upon the company, just as if the change had not been made. Then there is a restriction of your powers to life and accident insurance? A.—Yes.

Q.—That forever put an end to your doing any marine or guarantee or fire business? A.—Yes.

Q.—Then in 1882 you got another change of name. You got the name The Sun Life Assurance Company of Canada. That is the name which you have borne ever since? A.—Yes.

Q.—Then your directors qualification was reduced from 50 to 25 shares? A.—Yes.

Q.—It had been fifty up to that time, and became 25 by virtue of this act? A.—Yes.

Q.—Then comes a provision as to investment, which I have a little anticipated in my questioning you, but we will refer to it more in detail. "The company may in addition to the powers given by the said act invest their funds or any part thereof, in the public or other securities of Great Britain or any of her dependencies, of any Foreign State or States, whenever it shall be necessary so to do to enable the company to carry on business in any such foreign state or states." (Reads). "Provided always that the investment of the company in any foreign state or states shall at no time exceed the amount necessary to enable the company to do business in such foreign state or states"? A.—The latter clause was not there. It was added by the insurance department. It was no limitation or ours we did not pray to have any limitation put on it.

Q.—As you prayed for the Bill to pass, that limitation did not exist, but that was put on as it went through the House? A.—Yes.

Q.—Probably as you say at the instance of the Insurance Department? A.—Yes. We do not pray for any limitation.

Q. It would be quite convenient to ask you here into what country you have extended your business of life insurance? A.—We are working in some of the States, the United States,

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Honolulu, Japan, China, the Philippines, India, Hong Kong,—that would be looked upon as a place by itself,—and China, and the Strait Settlements, Burmah, Siam, Egypt, France, Belgium, Holland, Great Britain, Newfoundland,—I think that covers all,—well in South America there is Chili and Peru. We did a little there.

Q.—West Indies? A.—And the West Indies.

Q.—Mexico? A.—Mexico. I think that covers all.

Q.—You have left out one very important point. You have omitted Ireland? A.—Great Britain I said, yes and Ireland. We are doing business there. I did not mean to leave it out. I went through the Lakes of Killarney and I would be very sorry to leave that out.

Q.—Has that extension been the result of a gradually asserted policy, or has it come in waves so to speak, or have you been gradually increasing as a matter of continuous policy, or have you made definite and distinct extensions at different times. A.—Well it has been gradual and yet definite. We meant to extend—although now I have given all that I think of—when I say meant, we sent our superintendent, and he made a continuous tour to Honolulu, Japan, and right round. even went to the City of Jerusalem, so that that would be looked upon as very special, but at the same time it has been a gradual extension.

Q.—And your policy has had a certain degree of continuity about it? A.—Continuity.

Q.—About when did you first extend into the United States. I suppose that was your first extension? A.—No, that was one of our last extensions.

Q.—Where was your first? A.—The West Indies first, and the United States I cannot tell you when. We have been here quite a number of years, but I forget when we went. That was one of the last as far as I remember.

Q.—From the time you were first connected with the company was the company always looking forward to extension and working towards extension, or was there a period during which they were content with the home market? A.—They were quite content with the home market for quite a number of years.

Q.—Can you give me about the date. I do not want it very accurately: A. When did we go to the West Indies?

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Mr. T. B. MACAULAY:—1879.

Q.—The West Indies being the first you have extended? A.—We went to Newfoundland after that, and I think we went after that to Honolulu and from here branched right out to Japan and made a tour.

Q.—And was it after that that you went to Great Britain and Ireland? A.—We went to Great Britain, I have not the statistics with me.

Q.—We will find that out later, because I am only doing this to outline for the moment? A.—It was in the nineties we went to Great Britain.

Q.—I am only at present trying to get a sort of outline of your history, and we will try and fill it up a little more in detail later on. Speaking in the rough, what proportion does your foreign business in the sense in which we have been speaking of it, bear to your domestic or home business? A.—Somewhere about two thirds foreign,—that is the new business—and about one third home.

Q.—What do you mean by new business? A.—What we get yearly, I have not compared the total foreign to the total home, but I fancy it would be pretty near just about half.

Q.—Each about half? A.—About half new.

Q.—And as you have extended the foreign business that has rather outstripped the domestic business in proportion? A.—Quite so.

Q.—Have you a differentiation in rates in respect of some of your foreign business? A.—Quite so, yes.

Q.—Over what areas of foreign business do you apply different rates? A.—I would like to refer that to the actuary.

Q.—You do make a difference? A.—Oh yes, quite so.

Q.—Your domestic rates are more advantageous to the policy holders, than those at least of some of the foreign fields? A.—Of some.

Q.—Do you make the distinction that is made by some companies between domestic and tropical rates? A.—Yes, tropical and semi-tropical as well.

Q.—Tropical and semi-tropical? A.—Yes.

Q.—Perhaps you have more than two sets of rates. Perhaps you have three or four? A.—We must have at any rate three, perhaps more. You see there is the home, tropical and the semi-tropical. I am not sure if we

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have more than three, but we have those three.

Q.—You have those three if not more. That we will get a little more accurately later on when we go into it a little more in detail. Then the next statute is the one which I have referred 51-52 Vict., chap. 119. We need not say any more about that at present at all events. And then you have 60 and 61 Vict. of the Dominion, assented to in June, 1897, and that deals in the first place with your power to hold real estate, fixing it at what it is now, as you have already said. Then there is another provision in regard to investment, which I will put upon the record. The company may in addition to the powers heretofore conferred upon the company, invest its funds in ground rents, on real estate or mortgage security thereon, in any Province of Canada, and in or upon any bonds or debentures of any State of the United States, or of any other municipality of the United States or any mortgage on real estate therein, but the amount so invested in the United States shall not at any time exceed the reserve upon all outstanding policies in force in the United States, and such reserve shall be calculated upon the basis prescribed by the Insurance Act? A.—We did not ask for that limitation. That is put there by the Department.

Q.—There again you were limited in your passage of the Bill through the House to the amount of the excess reserve upon outstanding policies there? A.—Yes.

Q.—Then have you had the question raised under that clause with respect to the breadth of the provision with regard to mortgage on real estate in the United States? A.—I do not think so.

Q.—You do not think you have had that question raised? A.—I cannot recall any occasion ever discussing it.

Q.—Now supposing you had a conflict between the amount required under the Act of 1882 by a foreign state as a preliminary to your doing business there, and the amount of the reserve upon outstanding policies, how would you determine that? A.—I do not understand that.

Q.—You remember that under the Act of 1882 you were limited to investing in the securities of any foreign state or states to the amount necessary to enable the company to carry on business there according to the laws of that state. We were discussing that a moment ago, and under this section of 1897 in respect to the

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United States, you are limited to the amount of the reserve upon outstanding policies in force in the United States? A.—That does not refer to the United States.

Q.—You take the United States; you deal with the United States under this section, and with all foreign States except the United States in this one? A.—You see there that there is no reference to the United States at all.

Q.—Don't you think the words "any foreign state or states" cover the United States? A.—I do not think that was the intention at the time. What we were particularly anxious for was Great Britain or any of her dependencies.

Q.—It says, "or of any foreign state or states." You have treated that as excluding the United States? A.—Excluding the United States.

Q.—And the other specific provision as to the United States made in 1897, you have treated as governing that country? A.—Yes.

Q.—Have you been guided as to the United States by this clause in the Act of 1897, or have you in your working been at all governed by the general provisions of the Insurance Act? A.—I think we have been guided more by the Insurance Act in that regard.

Q.—In regard to the United States? A.—Yes sir.

Q.—That perhaps is not very different from this provision as to the United States? A.—No, not very.

Q.—In your original Act of incorporation, the Act of 1865, by the 7th clause there is this provision as to your investments, and that is the last provision I shall call your attention to before adjourning: "Provided also that it shall not be lawful for the said corporation to deal, use or employ any part of the stock, funds or moneys thereof, in buying or selling any goods, wares, or merchandise, or any banking operations whatsoever, but it shall be lawful for said corporation to invest and hold, etc., any of the public securities of this province, the stocks of any banks or chartered companies, or the bonds or debentures of cities or towns or municipal districts, and also to sell and transfer the same, and also to renew such investments, etc., also to make loans on bonds and mortgages at any legal rate of interest and with power to receive the same, etc." (read). I call your attention to the language of this proviso. "It is lawful for the company to pur-

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chase and hold such investment in public securities of this province, the stocks of any chartered bank or company," in your practice how have you treated that? What banks and companies have you held yourselves to be entitled to invest in? A.—Well, we have never discussed it in a general way beyond this. We have invested in bank stocks.

Q.—Any bank stocks except Canadian bank stocks? A.—Never had occasion to, no.

Q.—That is other chartered companies? A.—As to whether we could,—

Q.—You have gone outside of Canada? A.—As to whether we could invest in any companies outside of Canada.

Q.—Yes? A.—We would like to put a liberal construction on that.

Q.—I would like to know what construction you have put on it, and somebody else will decide whether it has been liberal enough or too liberal? A.—That I think is governed by another clause somewhere. We did not consider this as putting any particular restriction on us.

Q.—You did not think this clause enabled you—we won't say anything about restricting, because this is a clause which would be called an enabling clause—this enables you to invest in any of the stocks of the banks or other chartered company? I want to know whether you considered—and acted upon it, that that enabled you to deal or invest in the stocks of chartered companies outside of Canada? A.—I have been myself disposed to consider that we are at liberty to invest in chartered companies, wherever we were doing business. I looked upon this as giving us a right to go outside of Canada, and I thought wherever we were at liberty to do business, wherever that liberty extended the other did.

Q.—You did not think the words "of this province" made any difference? A.—Well, simply because it is not repeated.

Q.—"Any of the public securities of this province; the stocks of any of the banks or other chartered companies"—you thought if they had not intended to stop there, they would have said "of this province?" A.—I want to put that interpretation on it.

Q.—Mr. Smith suggests that I should ask you whether you have acted upon that interpretation? A.—I think we have had to act. We have

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taken it in connection with what appears in the Insurance Act.

Q.—We will deal with that more fully later on, but you have conceived you had the power under that to invest in stocks of chartered companies outside of the Dominion of Canada? A.—We were anxious to put that interpretation upon it.

AFTERNOON SESSION.

Montreal, 15th October, 2.15 p.m.
Examination of Robertson Macaulay resumed.

MR. SHEPLEY: Q.—Then, Mr. Macaulay, in connection with the matter that we were discussing at the time of the adjournment as to the scope of those words "other chartered companies." You were aware, no doubt, that a different view has prevailed in the Insurance Department, advised by the Department of Justice, from the view that you preferred. A.—Yes, I am aware of it.

Q.—Do you remember, speaking generally, when the question was raised with the Department or by the Department. A.—Some years ago, but I cannot settle the time. There was a correspondence, I know but I could not tell the date.

Q.—An opinion was obtained from the Department of Justice which has already been put before the Commission when it was sitting in Ottawa. You perhaps remember it. A.—Well, I know there was something of the kind done, but I did not regard it particularly.

Q.—Then with regard to the powers of investment which are given by the General Insurance Act; if I understood you correctly this morning, the view of your company has been that all of the powers given by the General Act in relation to investments are grafted upon and superadded to the powers you have by your own special Act. A.—I understand that, because there is a clause in that Act which specially says this Act is not intended to revoke or cancel anything that there may be in charters.

Q.—I am not intending to find any fault with that when I try to find the view which governs the policy of your company. Then have there been any differences of opinion between your company and the Department of Justice on the scope of the powers conveyed by the General Insurance Act? A.—Yes, there have been.

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Q.—Can you tell me briefly what differences have arisen? A.—Well, I do not know that I can give you all the differences, but differences arose; they insist upon it that the granting of a charter to an institution does not bring it within the scope of the Insurance Act. Now, we hold that it does, for the reason that it is not a qualified expression. If I had the Act I could read it.

Q.—I have it here if you will point out what you have in mind. Are you referring to your own or the Insurance Act? A.—With regard to our own Act to begin with; we regard it in this way, there is no limitation so far as we understand it.

Q.—You refer to page 8, section 7, about two-thirds of the way down the page. A.—We are here prohibited from doing certain things. Then follows, that it shall be lawful for the said corporation to purchase for the purpose of investment either in any part of the said funds or in any of the public securities of this Province. Now we hold, we may be wrong, but in that I think we have been sustained by our legal adviser, that the limitation of powers ends there, and then wherever we are at liberty to do business we are at liberty to invest either in the stocks or the banks or chartered companies that may be there.

Q.—That is the view you were good enough to give us just before the adjournment. That, as you have just now told me, has been a matter of difference of opinion between yourself and the Insurance Department, and you have guided yourselves—or how has your company been guided? A.—We have been guided by our own opinion.

Q.—Then I have passed from that, if you please, Mr. Macaulay, to the powers conferred by the General Insurance Act upon all companies. I have asked you, whether or not, there had arisen differences of opinion between yourselves and the Department in respect of those powers and you told me there had? A.—Yes, there has been a good deal of misunderstanding.

Q.—I want you, if you will be good enough, to tell us briefly what those differences have been? A.—For instance an expression here, "electric light or power company." That little word "or" is understood that we may invest in the securities of an electric light company or of an electric power company, but we must not touch an electric light *and* power company. We maintain that surely if we are allowed to deal in them separately, that

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jointly, for economy's sake and other things, we are at liberty to do that.

Q.—That is one difference of opinion between you? A.—Yes, and we have held to our own opinion and unless overruled, we mean to act upon it in the future.

Q.—What other difference of opinion has arisen between you as to your general powers? A.—"Every such company being incorporated in Canada." It ends there. It does not say a company operated in Canada, it simply says a company incorporated in Canada, and we hold that all companies that are incorporated in Canada are included here.

Q.—No matter where their place of operation may be? A.—Well, we simply follow that interpretation.

Q.—Then you tell us that there has been a difference of opinion between your company and the Department upon that point? A.—Yes.

Q.—With respect to companies chartered in Canada whose field of operations is intended to be and is in fact outside Canada, the Department has taken the view that the general power does not enable it? A.—Yes.

Q.—And you have taken the other view? A.—If that was intended it should have been so expressed.

Q.—And in that respect you have been following the opinion you entertained rather than the opinion of the Department? A.—The opinions we ourselves entertained and the opinions of the lawyers whom we have consulted.

Q.—That is your opinion, of course, because you are guided by those whom you ask to advise you? A.—Will you let me add just there, that we take for granted if the Government or Parliament intended to extend the clause here so as to limit it to those that would be operated here, we take it for granted that Parliament would have said so.

Q.—Would have said so in express terms? A.—Yes, and the fact that they did not do it, we think is sufficient reason why we should consider it that all incorporated in Canada should include those operated outside as well as inside.

Q.—Does any other difference of opinion on the powers of the General Act occur to you? A.—Well, I have not gone over these matters recently. We were thinking you would have been down in Montreal some four or five months ago and I was more prepared then than I am to-day.

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Q. Do not let me hurry you. That is no part of my purpose. I want to get all the light there is? A.—There is a point where the Department attempted to interpret Canadian securities deposited with our trustees in England as being foreign securities, while we hold that surely the mere fact of their being deposited there did not make them British securities any more than they were before.

Q.—Did that clause arise in connection with the amount you had invested in the foreign country—the amount of your investment prescribed by the Act as to foreign countries; the Department wanted to include Canadian securities deposited with the foreign government, while you wanted to exclude those, and say that you had a right to invest above and beyond that in the foreign securities? A.—That was not the point; the point was this: we held that the Canadian securities that we deposit abroad continue to be Canadian securities. The Department attempt to make out that inasmuch as they were doing service, although Canadian securities, doing service in a foreign country they must be ranked among our foreign securities.

Q.—And, therefore, included in the total amount that you may invest in foreign securities? A.—Yes.

Q.—That is what I was asking you. You, on the other hand, say, no, we have a right to exclude those from our power of foreign investment? A.—Yes.

Q.—And invest in strictly foreign securities to the limit of the power given to you, excluding these? A.—Yes.

Q.—Then are you adhering to your own interpretation there, too? A.—There is no use of a man having an opinion and not following it. We are being guided by our own opinion.

Q.—Then is there any other difference that has occurred to you? A.—No other occurs to me, just now. There may be more, but they do not occur to me at the present moment.

Q.—Then if I understand you, you do not feel yourself bound to submit to the Departmental interpretation of these provisions? A.—Not unless we feel that they are in season.

Q.—Unless you agree with the Departmental interpretation you do not feel bound to submit to it? A.—No, sir.

Q.—And that is the policy upon which your company has been acting? A.—Yes sir. We have never had a

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ruling from them, beyond simply an intimation of the difference of opinion. And when we submitted our opinion to them we got no reply.

Q.—We have the correspondence with regard to that and that is already upon the record and I want to put this upon the record also. This is a document prepared by you in answer to certain questions which I submitted to the insurance companies, and under the heading "Securities" the first question is, "Furnish full information as to the nature of the securities which, upon your Company's construction of your special Act of Incorporation, are authorized by it, referring to the statutory provisions relied on." The other question under the same head is with reference to the powers given by the Insurance Act, I will read that also, "Furnish full information as to the nature of the securities which upon your company's construction of the Dominion Insurance Act, are authorized by that Act, referring to the provisions relied on." This is a document prepared in answer to those two questions? A.—Yes.

Q.—And may I conclude that that document contains the best argument of which the Company is capable on the subject? A.—The best I can think of at present.

Q.—Then may I put it in as being the contention of the company upon those subjects? A.—Yes, I hold to those opinions. (The document is filed as Exhibit 585).

Q.—No doubt you do, Mr. Macaulay, or you would not have expressed them. Now, I come to another subject. I want to take up the question of your issues of stock. You had, as we have seen, when you took your Acts of Incorporation, in connection with your life insurance branch power to issue stock up to a million dollars and power to add, with the sanction of the shareholders up to another million.

Q.—Do you agree to that as a statement of the power? A.—Yes.

Q.—What was your first issue? A.—\$500,000.

Q.—5,000 shares of \$100 each? A.—Yes.

Q.—And those were fully subscribed? A.—Yes.

Q.—What was paid on them to start with? A.—10 per cent.

Q.—Then it became 12½? A.—Afterwards in 1876.

Q.—That is further back than we have asked you to give us answers

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But in 1876 it was paid up to 12½ per cent.? A.—Yes.

Q.—That was \$62,500 of paid up capital? Then was that ever paid up to any greater extent than the 12½ per cent.? A.—I have been repeatedly requested to allow shareholders to pay up more and I have always refused. Except when you come on in 1897.

Q.—You can tell us, of course, why you declined to accede to the proposition of having more money paid in? A.—Simply because we did not need the money.

Q.—That is an excellent reason. You did not need the money, and there was no reason why you should permit shareholders to put in more money to be drawing down interest. A.—Taking away more of the profits belonging to the policy holders. Of course I fully appreciate that I am under oath and you want all the information that I have. The reason that guided me particularly in refusing was always that it would be a tax on the policy holders.

Q.—That raises an interesting question which, perhaps, we shall have to discuss more in detail hereafter. You had no difficulty in carrying out your operations satisfactorily down to 1897 at all events from 1874 when you became identified with the company, upon the—I call it small—paid up capital of \$62,500? A.—Not as regards capital.

Q.—You did not want more capital? A.—No.

Q.—And you always set your face against increasing capital? A.—Yes.

Q.—Then what happened about 1897 to make a change in the policy of the company in that respect? A.—In respect to the paid up capital?

Q.—Yes. A.—We were then talking of entering the State of New York and we could not do that unless the paid up capital was at least \$100,000. We thought of doing that and to do it we had either to issue new stock or make a call upon the old.

Q.—That was you say with reference to your policy of extending your business into the State of New York? A.—Of extending our business.

Q.—You did not feel able to make the extension upon its own merits as a financial proposition? That is you did not feel able to make it a self supporting extension from the beginning? A.—I hardly appreciate your question.

Q.—If you went into the State of New York and did business there which would carry itself, you would not have

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needed capital? A.—No, it is the law of the State of New York that will not permit a company to enter there without having a paid up capital of at least \$100,000.

Q.—It must have a paid up capital of at least \$100,000 before it can do business in the State of New York? A.—Yes.

Q.—And that was the necessity that operated as a compulsion upon you? A.—Yes.

Q.—Then I would ask you, so as to eliminate that feature, if it may be eliminated, would you but for the compulsion of that law have been able to extend to the State of New York without increasing your capital? A.—Could not do it.

Q.—But if it had not been for that law, if it had only been a financial question could you have made your extension there without calling up capital? A.—That leads to another thought. On our making inquiry we found, even after qualifying by the addition to our stock, we did not follow up our intention, the reason being that the first inquiry was, where is your cheque for \$10,000? I asked what for. I was told, the Department requires that as a means of enabling them to examine into the affairs of the company, before they would allow a company to go in there. I said I would not do it and we have never entered the State of New York yet.

Q.—What you say is that having raised capital in the way we will have explained in a moment, by reason of the existence of the law in the State of New York, you did not in fact go there. A.—We did not go there.

Q.—Because of the demand of a deposit? A.—No, not a deposit. \$10,000 simply for the Department's expenses.

Q.—I was not aware of that before, that \$10,000 is the Departmental fee in the State of New York for examining into the affairs of an Insurance company. A.—Yes, they insist upon making an examination of the company as a means of getting in there: before moving in the matter we had to make a deposit of \$10,000 for the expenses of that examination, and probably \$600 would have covered the whole thing.

Q.—Did you understand that the \$10,000 would be absorbed no matter how much the thing cost, or was it there just as a security? A.—I couldn't

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tell you. I have no right to offer an opinion there.

Q.—You were not informed about that? A.—No, we understood it.

Q.—You understood it was all liable to be taken? A.—It is one thing to understand it and another to know it.

Q.—It was one thing to have the fund liable to be absorbed altogether, and another to pay the actual expenses. Then to return to what I was asking you; it can now only become probably a question of your opinion; would you, if you had been contemplating extending into the State of New York, and if there had been no law there compelling you to have capital of \$100,000, have considered it a policy that you could have carried out to make the extension without increasing your capital? A.—If we had been allowed to go in there without paying \$10,000 or having the capital increased and in addition paying \$10,000, had there been nothing of that kind we would have gone in there.

Q.—Without increasing your capital? A.—Certainly.

Q.—Then the increase of your capital was not in any degree based upon the necessity of meeting initial expenses of opening the field? A.—No, sir, not at all.

Q.—Then what did you in fact do in 1897 when you had this in contemplation with regard to your capital stock? A.—We issued 2,000 shares and sold them at \$45 a share.

Q.—That would be \$200,000. When you say \$45 a share let us see what that means. A.—15 per cent. was the amount paid up on the whole of the shares. We issued 2,000 more at the same price. That is the \$15 paid up. We sold for \$45. And as a result \$15 or \$30,000 of the 200 went to the credit of capital, and \$60,000 went to credit of the general funds.

Q.—You issued 2,000 shares or \$200,000 worth of new stock. You issued that as a stock with 15 per cent. paid upon it. A.—Paid up.

Q.—That yielded a fund of \$30,000? A.—Yes.

Q.—As payment on account of the \$200,000? A.—Yes.

Q.—Then you exacted as the value of this new issue of stock, over and above the 15 per cent. an additional 30 per cent. A.—30 per cent. as a premium.

Q.—Making another \$60,000, so that the proceeds of that sale were, altogether, \$90,000? A.—\$90,000.

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Q.—\$30,000 of which was applied upon the capital account as being 15 per cent. paid upon shares? A.—Yes.

Q.—And the balance carried into the General Fund as it came in? A.—As a profit, yes.

Q.—Then supposing you were to call up the remaining 85 per cent., was there anything in the terms upon which you issued this stock which would require the balance of the premium to be paid also? A.—I do not exactly understand that.

Q.—You see you were getting 15 per cent. of the capital value and 15 per cent. of the premium value? A.—Yes.

Q.—If you called up another 15 per cent. of the capital value would you call up another 15 per cent. of the premium value? A.—On the same stock?

Q.—Yes, or how did your scheme deal with that question? A.—We did not deal with it at all; we simply sold so many shares at a certain figure.

Q.—You sold them at a premium? A.—At a premium of \$30 a share.

Q.—Then you were not selling them at a premium of \$200 a share if they were all paid? I do not know that I make my meaning clear to you. If you had been collecting the whole \$200,000 and had been issuing the stock at a premium of 200, you would have got, not only \$200,000 to apply on capital, but \$400,000 to apply on premium on stock. Was it the intention, when you devised this scheme that you should ever call up more capital, ever call up any more percentage upon that stock? A.—We had no thought or intention at the time, of doing so.

Q.—And I suppose it follows then that you had no intention of calling up any more of the premium, or had the premium exhausted itself by the payment of this \$60,000? A.—It exhausted itself there. The stock was sold, the party bought it, say for \$45, and it was his for that. But the question of bookkeeping was another thing. We put \$15 to his credit—we acted just the same as if anyone outside had been selling it in the market—the company pocketed the \$60,000 and put \$30,000 to the credit of the stock.

Q.—Under the bargain you made with these subscribers to that issue of stock you are never going to be able to call it in for any more than 85 per cent. of the capital? A.—No sir.

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Q.—You are not going to be able to call on him for any more premium? A.—No.

Q.—The premium is exhausted by that payment, once for all? A.—Yes, as far as we know.

Q.—You issued that as paid up at 15 with a view of making that stock stand upon the same terms as the other? A.—As the other.

Q.—But you have not told me how you got the other from $12\frac{1}{2}$ to 15? A.—That was in 1897; $2\frac{1}{2}$ per cent., the \$2.50 per share, was put to the credit of stock from surplus; that is from the portion of the profits that had been allocated to the shareholders.

Q.—That is in respect to the holders of the \$500,000 of stock upon which $12\frac{1}{2}$ per cent. had been paid, from the profits accruing to those shareholders you allocated $2\frac{1}{2}$ per cent. upon \$500,000 as a bonus to raise the payment to 15 per cent.? A.—15 per cent.

Q.—And in that way that became paid up to the extent of 15 per cent. You have prepared a little exhibit here which shows that in a very concise form. I will put that before you and put it in. This is prepared, of course, by your company. You show a paid up capital of \$62,500 during the years 1891 to 1896 inclusive? A.—Yes.

Q.—You showed during the first half of 1897 the same \$62,500? A.—Yes.

Q.—Then you show during the second half of 1897 a bonus addition of \$12,500. A.—At the time of division.

Q.—Which pays up another $2\frac{1}{2}$ per cent., making the paid up capital for the latter half of the year \$75,000? A.—\$75,000.

Q.—Then you bring in the new stock, \$200,000 with 15 per cent. paid on it; that is \$30,000 more, and from 1898 down to the present time you show the 75 plus that 30 or \$105,000 of paid up capital? A.—Yes.

Q.—That is the way that was done? A.—Yes.

Q.—So that from 1897 down to the present time your paid up capital is \$105,000 or 15 per cent upon the whole \$700,000? A.—Yes.

Q.—And you have not issued any more capital nor needed any? A.—No.

Q.—You have not called up any capital nor needed to? A.—No.

Q.—Your operations have been satisfactorily carried on without any such call for or addition to the capital stock? A.—It is satisfactory to us.

Q.—Nothing could be a better test. And if I understood you correctly, if

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it had not been for the abortive proceedings taken towards extending into New York you would still be working on the \$62,500? A.—Well, I am not sure of that, no. In 1897 we would have had the addition.

Q.—Which addition? The \$30,000? A.—When it was raised from \$62,500 to \$75,000.

Q.—You would have done that any way? A.—The addition of the $2\frac{1}{2}$ in 1897 was in no way the result of our intention to enter the State of New York. It was simply the result of the condition of our surplus at that time.

Q.—You felt that the surplus was so flourishing that you could take that out? A.—No.

Q.—Then put me right; I want to be put right? A.—The amount of profit belonging to the shareholders warranted us in doing that.

Q.—I would say that is putting the same idea in a little better language? A.—Well, I would not say better language, I would say a little different idea.

Q.—Then let me amend the proposition I put to you a moment ago. Having found that you were able without inconvenience to pay a bonus to your shareholders of \$12,500 and so increase their capital stock paid up to \$75,000, I take it that you will go with me this far, that you would not have made any further call or addition to your capital stock, so far as the exigencies of the business were concerned, from that date down to now? A.—Not as far as I know.

Q.—Does it fairly follow from that, that you have been paying interest to shareholders upon \$30,000 of stock that you did not need? A.—No, pardon me; I will correct myself there. We have been paying interest but we have been paying no profits.

Q.—Then I will amend it that way, so as to have you go with me. You have been paying interest upon \$30,000 loaned to you that you did not need or advanced to you, paid in to the capital stock that you really did not need in the company's operations? A.—I do not like to use the word "lent to us," we gave them value in the shape of stock; that \$30,000 had been earning 5 per cent. interest since and nothing more.

Q.—And you have not needed it all this time? A.—No, I cannot say that we required it. We could have done without it. (The statement referred to filed as Exhibit 586.)

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Q.—I will have this document marked also (Exhibit 587). This Exhibit 587 has also been furnished by your company? A.—Yes, apparently.

Q.—This shows, in a little different form and quite as concisely your subscribed and paid up capital in 1891 down to 1905, the subscribed capital being \$500,000 for the first six and a half years and for the other eight years and a half, \$700,000? A.—Yes.

Q.—That amount paid up is shown as in the other exhibit. Then Exhibit 587 also shows the names of your shareholders and the transactions from 1891 down to 1905. You might just look at it and verify that? A.—I know it has been rendered to you, but I have not gone over it. I know the handwriting and I am prepared to accept it as correct.

Q.—It has been rendered as being an accurate account and I have no doubt that it is? A.—I have no doubt whatever that it is correct.

Q.—Then, by a process of going through the stock holding in the year 1905, we can arrive at who the shareholders of the stock were during all this time and including 1905? A.—Does it include 1905?

Q.—Yes, the last year is 1905 and is footed up to the 7,000 shares? A.—Yes, that is right.

Q.—Then there has been prepared for me a statement which I would like to put in at this point; it has been prepared from the document I have just been looking at; a statement showing what the holdings of the various directors were in 1905? A.—The Blue Book shows that, I believe.

Q.—I think the Blue Book shows that? A.—But I could not verify the correctness of that from memory.

Q.—May I give it as we have it, subject to being corrected? A.—If you will allow me to look at the writing?

Q.—It is not from your company at all? A.—Oh, then I cannot verify it. If one of our own staff gave it I would accept it.

Q.—This is taken from the documents we have here? A.—If it is an extract from this, may I refer to this (Exhibit 587)?

Q.—Yes, look at Mr. Ewing and look in the last column? A.—73 shares.

Q.—Mr. Cleghorn, another director? A.—36 shares.

Q.—36 is what I have. Cushing, another director? A.—His name isn't here.

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Q.—Charles Cushing, 50? A.—Yes, 50, I know now.

Q.—Mr. J. D. Dougall? A.—25. He is not here, either. I don't see how that is.

Q.—You will find him on the last page; he was not in so early as that. It is on this printed list? A.—J. R. Dougall, 25 shares.

Q.—Kingman? A.—55.

Q.—Mr. McKergow? A.—35.

Q.—Mr. Tasker? A.—250.

Q.—Then how many have you Mr. Macaulay? A.—517.

Q.—Then you acquired 25 shares since the 31st December, because you had only 492 then? A.—I am not sure at the present moment. Whatever is here is my property, that is all I know.

Q.—517 then. Then Mr. T. B. Macaulay? A.—He has 141.

Q.—Then he has parted with some. Then have you some in trust? A.—I have. Shall I say how many?

Q.—Yes, please? A.—209.

Q.—There are 25 gone out of that; perhaps that is the 25 that has been added to your personal holding. That would seem to indicate that 25 of the shares you held in trust on the 31st December have become vested in you beneficially since? A.—Yes, that is so.

Q.—Then what is the trust upon which you hold those shares? A.—I have loaned moneys to parties, that is my own personal property.

Q.—You have been loaning your own personal money to various shareholders? A.—Yes.

Q.—Are all the 209 shares, shares in respect of which you have loaned money in that way? A.—No, not all. I cannot tell you exactly the number but there is a certain number in my wife's name, part of this 209 stands in my wife's name, that is they are in trust for her, I mean to say.

Q.—They are her property? A.—Yes.

Q.—And the whole of the balance is stock in respect of which you have made loans? A.—Yes.

Q.—And you hold then in trust to satisfy the loans? A.—Yes.

Q.—Then Mrs. T. B. Macaulay, is she a stockholder? A.—Mrs. H. M., isn't it? Mrs. H. M., 33 shares.

Q.—That is the same? A.—Yes.

Q.—Mrs. A. J. Macaulay? A.—20 shares

Q.—And Dr. H. R. Macaulay? A.—173 shares.

Q.—That is the same. Then what

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other shares are there belonging to the Macaulays? A.—I think you have exhausted the list of Macaulays. There is a total here 1,740, I think.

Q.—1,740 is the holding of the clan out of the 7,000. There may be some that are not here, but I do not know that I am concerned in following that out in detail. I will return this printed list. Then it had better be recorded that the figures that have been given are the figures as of February of this year and later than the 31st December 1905. To what extent does the practice of directors holding proxies from shareholders obtain in your company? A.—None.

Q.—There are no proxies? A.—No.

Q.—There are no proxies held by directors for shareholders? A.—No, there has not been a proxy used inside of 15 or 20 years.

Q.—When you say a proxy used, you are not making any reservation there about there being proxies but not finding it necessary to use them? A.—No, I am not aware of any proxy ever being obtained or used inside of 15 years.

Q.—If a shareholder is not there in person he does not vote or his vote is not taken. A.—No, only those present.

Q.—For 15 years he has not been able to vote without being there? A.—No sir. I don't mean to say that he would have been disqualified if he chose to give the proxy, but no proxy has been given or used that I know of.

Q.—Mr. T. B. Macaulay tells me that there are proxies given before that time and still unrevoked. A.—What I mean is this, that whatever proxies were obtained in the early history of the company, I am not aware that any have been obtained during the last 15 years or more, but no action on the part of the company or directors has ever been taken to annul them.

Q.—Have they been voted? A.—No sir, never used.

Q.—Even the old unrevoked proxies have not been used? A.—No. I mean that in that time; I have not gone back further to see.

Q.—Then you did say, and I think that is material, that there has never been any sending out of proxies or any attempt to get proxies in 15 years? A.—No, not within my knowledge.

Q.—Can you, without a great deal of trouble, have these old proxies hunted up? A.—I think so. The names or the proxies themselves?

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Q.—The proxies themselves, I would like to see the terms of the proxies you have that are unrevoked. A.—Well, they are old material now. Whether I can get them or not, I will give you all I can get of them.

Q.—If you can do that without too much trouble. I do not want to give you a great deal of trouble about it, but I would like to see the form of proxy that was used and how it is that they do not revoke themselves. A.—We do not need them. There has been no call for them.

Q.—At all events you have not made use of them in 15 years? A.—No.

Q.—And you have never tried to get others in 15 years? A.—No.

Q.—Then the next document that I wish to have your assent to is under the heading "Organization and Administration." You have said in answer to one of my questions sent to the various companies: "The company has not now and never has had any administration boards or committees, all the duties of this nature being performed by the Board of Directors as a whole." A.—Yes, well, I do not like the word "Board;" of course our Board meets every week, but we have never had any committees since—a committee now occurs to me that was appointed away back somewhere in 1875, '76 or '77 or '78 and met two or three times.

Q.—What was the committee for? A.—The idea was that they would be useful to me and they met two or three times and they thought a committee of one was better than a committee of three.

Q.—I suppose, after all, that is what it is; a committee of one is more steadily upon the ground than a committee of three, and perhaps more familiar with the business to be done. Then there is a clause in your charter with regard to that, but it hardly goes to the length of making a committee. It is the 17th paragraph of the original statute. "There shall be a weekly or semi-monthly, as may be fixed by the by-laws of the company, meeting of the Board of Directors of the said company, and any three or more of the said directors shall be a quorum for the purpose of transacting and managing the details of the business and affairs of the company." That at all meetings the questions shall be decided by a majority. The ordinary quorum was a majority of five under the other section; this makes three a quorum to do certain business at the

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weekly meeting. Were you aware of that? A.—I don't remember the five and the three.

Q.—At page 12, paragraph 15. Any number of the directors, being a majority; that would be 5 out of the 9. Then this next paragraph enables 3 to do the business. A.—This overrules that, and consequently the majority would be three.

Q.—They are not enabled to do certain business, such as passing and altering by-laws. A.—We have never had that; we have never had a meeting of three, a hole and corner meeting to do a thing of that kind.

Q.—That would not lessen the force of your answer that you have had no executive committee? A.—None.

Q.—Because if three were a quorum it would be the Board still that would be acting? A.—If you will let me finish that I think I can make it more complete?

Q.—By all means? A.—Our Board meetings are once a week, Tuesday, at half-past two o'clock. It is unnecessary that we should notify them of the meeting. All are expected to attend and I do not remember any meeting at which there were but 3 directors, I cannot recall an instance of the kind.

Q.—You have an energetic and active Board, I should say? A.—No use having them without that. There is not a matter of importance that is passed, that is not passed absolutely by the Board. There may be one or two absent.

Q.—Then the changes since 1891 have been changes made necessary by death? A.—Yes, I think so.

Q.—I will take those changes, in order to have them upon the record. Your Board on the 1st January, 1891, was composed of the following nine: yourself, President; Hon. A. W. Ogilvie, Vice-President; Messrs H. Ewing, Robert Anderson, W. J. Withall, James Tasker, M. Mackenzie, Alex. Macpherson and J. P. Cleghorn. Robert Anderson died in 1896 and was succeeded by T. B. Macaulay? A.—Yes.

Q.—W. J. Withall died in 1898 and was succeeded by Mr. J. R. Dougall? A.—Yes.

Q.—Mr. Ogilvie died in 1902 and was succeeded by Abner Kingman? A.—Yes.

Q.—Two died in 1904, Mr. Mackenzie and Mr. Macpherson, and in 1904 Mr. Charles Cushing was appointed upon the Board and in 1905 Mr. John MacKergow? A.—Yes.

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Q.—Those are all the changes in your Board since 1891? A.—As far as I remember, yes.

Q.—Then a general question with regard to the present Board. You of course are on the spot and know what is going on? A.—Yes. I have to qualify that by saying that I have my holidays and so forth, and I may be ill. Outside of that I am there always.

Q.—Mr. Ewing, the Vice-President? A.—He is there practically every day and sometimes a good many times in the day. Making allowance for his holiday.

Q.—He is a regular attendant at the meetings? A.—Yes.

Q.—And takes an active part in the business of the company? A.—Quite so.

Q.—Then Mr. Cleghorn, is he an active director? A.—Quite so, a very regular attendant.

Q.—Perhaps not so much in the office as Mr. Ewing is? A.—No, no other director outside of the Secretary and myself.

Q.—He attends the meetings, though, regularly? A.—Regularly, very regularly.

Q.—Does he take an active part in the business that goes on? A.—They all do.

Q.—You say that with regard to all of them? A.—You would not expect me to make any discrimination.

Q.—No, I am not going to ask you to make any invidious distinctions; that would not be fair to you or anybody else. But the people who are the most active are yourself, the Secretary, Mr. T. B. Macaulay, and, shall we say, Mr. Ewing? A.—Yes, I would say Mr. Ewing, simply for the reason that he is expected to call oftener at the office.

Q.—He, I suppose, receives a salary as Vice-President? A.—A little more.

Q.—And is expected to give a little more time? A.—Yes, that is all.

Q.—You would not draw any distinction between the other six at all? A.—No, none.

Q.—All regular attendants? A.—Yes, all regular attendants, and ready to give their services to go abroad anywhere to look after investments whenever required, and they have done that a good many times.

Q.—Actively participating in the inquisition you make into securities that are presented to you? A.—Every one, of course some more, some less.

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Q.—I put that statement with regard to organization and administration in (Exhibit 588). Now, the next subject I want to take up with you is the subject of the dividends which have been paid to your shareholders. You furnish two statements, one of which has been marked as No. 586 and the other will be No. 589. According to the statement given to us your shareholders were paid a cash dividend of 12 per cent. or \$7,500 in 1891? A.—Yes.

Q.—In 1892 for the first 6 months at the rate of 12 per cent., and for the second 6 months at the rate of 15 per cent.? A.—Yes.

Q.—Or altogether for that year \$8,437.50? A.—Yes.

Q.—Then for 1893-4-5 and 1896 15 per cent. or in each year \$9,375? A.—Yes.

Q.—Then in 1897 15 per cent. for the first half year upon \$62,500 and for the second half year upon \$75,000, making a total of \$10,312.50. That was the year in which the capital was paid by the addition of a bonus. That \$10,312.50 was in addition to the \$12,500 applied upon the capital stock? A.—In addition, yes.

Q.—The old shareholders got \$12,500, paid on their capital stock in addition to these dividends? A.—In addition, yes.

Q.—Then from 1898 to 1905, inclusive, the dividend has been 15 per cent. on \$105,000 or \$15,750 per year? A.—Yes.

Q.—Now, are you able to discuss with me the shareholders' account? A.—I think so. Where I cannot I will refer it to the Secretary who will know better.

Q.—This is a copy of your shareholders' account taken from your books and you will probably be able to recognize most of the items about which I want to ask questions. This is in the shareholders' account, ledger 3, at page 109, on the 1st of January, 1892, there was a debit balance brought down of \$647.54. Is that familiar to you in a general way? A.—Not familiar, but of course I know it is there.

Q.—Does that indicate that the shareholders down to the 31st December, 1891, had received more than was coming to them according to the true state of their account? A.—That the last dividend paid overdrew their account to the extent of \$647. It must not be forgotten that there was interest and profits accruing due. Had we been able to have put to their credit at that moment the profits be-

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longing to them by the division there would have been no overdraft. Of course we only do that at the end of every year.

Q.—Then this account not only shows what is actually paid out to them in dividends or in any other shape, but it also shows what is carried to the credit of an account against which these dividends may be drawn. A.—To the credit of the shareholders.

Q.—Now the first entry on the other side of the account is $6\frac{2}{3}$ per cent. of profits, \$16,042.51. Just tell me what that means. A.—That means their proportion of the profits at division.

Q.—When you say their proportion of the profits just elaborate that a little for me, if you please. Did you mean their proportion of the profits which have been earned by the total moneys of the company during that year, that is during the year 1892? A.—No, because there is \$4,448, carried to the credit here, which means the interest upon their capital. Therefore that interest must be left out.

Q.—The first thing to do then is to ascertain what interest you will pay them upon their capital, their money, apart from any question of profits? A.—Yes.

Q.—In other words you treat their capital as a debt which you are to discharge first out of profits? A.—Yes.

Q.—That is the interest upon which you must pay. At what rate was that interest computed? A.—Either 5 or 6, I am not just sure now.

MR. LANGMUIR: According to its earning power or does it vary from time to time? A.—I think we simply made a division of 5 or 6 per cent. I am not sure whether we considered whether the earning power was really up to that, or not. That is my impression. The Secretary can tell you more accurately. I have never been concerned in any of those divisions.

MR. SHEPLEY: I am more interested in getting the method adopted in this account presently than with the accuracy of the figures. A.—Will you allow me to ask whether that is the way it was done?

Q.—Certainly.

MR. T. B. MACAULAY: We carried to the credit the interest earned upon the shareholders' money and then also credited them with the proportion of the profits.

MR. LANGMUIR: Is there a special investment of the shareholders' money? A.—No, no special investment at all.

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MR. SHEPLEY: Your Honors will see the general method of the account when I have got a little distance. Then your hypothesis is that the shareholders' capital, money, has been at risk and they ought to receive interest upon it? A.—Yes, and a little more. They have got nearly a million dollars at risk besides, not paid, and we hold and I consider they are entitled to get something for that. In the event of the company going to the wall, becoming insolvent, their unpaid stock would be called in and it would be very funny to have that called in and yet get nothing for it in the meantime.

Q.—Can you tell us what allowance you make in respect of the unpaid capital? A.—I don't think we ever take that really into account beyond simply saying that if we are earning 5 or 6 they get that.

Q.—That is upon what they have paid in? A.—Yes.

Q.—But not upon what they may be called upon to pay? A.—Not a cent, except if we earned 4 and gave them 5, the half per cent. is practically for that.

Q.—That is, you may be paying then a greater rate of interest than your funds have actually earned? A.—A little, yes.

Q.—And you consider that their capital having been at risk should receive interest, and should receive interest at perhaps a little more than has been earned, for you have regard to the further risk in respect of the unpaid capital. A.—I am afraid you will have to simplify that a little.

Q.—First, they have had a certain amount at risk, \$62,500, that was earning money. A.—Certainly.

Q.—If that earned $4\frac{1}{2}$ per cent. along with the general funds you were investing, you did not confine them to the $4\frac{1}{2}$ per cent., but gave them a little more. A.—I think so.

Q.—You did that because you considered that they had the unpaid capital at risk also. Well, I put that in; I don't know that I should do it. It is merely as a matter of course. I don't know that is moved us to do so.

MR. KENT: I understand you, Mr. Macaulay, to say that the shareholders are entitled to be paid upon capital stock they have not paid up? A.—That it ought to be considered when we come to make a division of profits. You would not be willing, Mr. Kent, to be liable for \$20,000 and have only \$500 paid up and only be paid interest upon your \$500?

Q.—I would be very glad to be liable for \$20,000 for the Sun Life?

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A.—That is not the question. You are a citizen of Montreal and you know there were years when perhaps you would not have said that.

Q.—I do not remember a year when it was not a good thing to be a shareholder in the Sun Life? A.—I am very glad to hear your good opinion of it, sir, but I am very sure if Mr. Kent were an extensive shareholder he would expect all that we have been paying at least, or I am very greatly mistaken. Human nature is the same in everybody pretty much.

MR. SHEPLEY: At all events that is the explanation of that item of interest? A.—I think these two ought to be bracketed together.

Q.—We will bracket them together. But the company did not do that; I do not mind bracketing them, although we have to consider them separately, any way. You have, of course, to deduct from the gross profits that you have on hand that item of interest before you apportion the balance between the shareholders and the policyholders? A.—I believe that is done.

Q.—Then this would indicate that you calculated 6 2-3rds per cent. of the profits so left as being apportionable to the shareholders? A.—To the shareholders.

Q.—Do you know whether that is accurate as a matter of fact? A.—In what way?

Q.—That the sum of \$16,042.51 is really 6 2-3rds per cent. of the profits then divisible? A.—If not correct I am mistaken.

Q.—You believe it to be correct? A.—I do. It was the intention and not one per cent. more.

MR. T. B. MACAULAY: Might I explain there, Mr. Shepley?

MR. SHEPLEY: By all means.

MR. T. B. MACAULAY: The 6 2-3rds per cent. is the proportion of the amount which is divided at that time. Not of the total surplus of the company, but we figure out what amount is going to the policyholders and then if 93 1-3rd per cent. is what the policyholders get, the shareholders get 6 2-3rds, making the hundred altogether. It is not the total surplus but only the amount actually paid to the policyholders at that time.

WITNESS: In other words, out of every \$100 that is decided upon to be divided the shareholders get 6 2-3rds.

MR. SHEPLEY: We will go into this a little more fully when we have

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the books here, but according to your understanding of it you set apart at that time for policyholders such a sum as would bear the proportion of 93 1-3rd per cent. as against 6 2-3rds per cent.? A.—Yes.

Q.—Is there a policyholders' account like the shareholders' account kept in your books where we can find these divisions? A.—Do you mean an individual account?

Q.—No, this is not an individual account; this is an account for all the shareholders? A.—I think so.

Q.—You think there is an account for the policyholders in the same way? A.—There must be. I am not familiar with it, but there is a private account. Would you allow me to ask the Secretary?

Q.—By all means. What I am asking is this, whether you have in your books an account kept upon the same principle as this, but for policyholders instead of shareholders?

MR. T. B. MACAULAY: Yes, we can show that.

Q.—Perhaps it would be as well to send for the book containing these accounts and we can illustrate, if necessary, as we go? A.—You see, Mr. Shepley, I am not conversant with books. There is a vast amount of detail that has to be divided and I do not attend to it.

Q.—I understand that, Mr. Macaulay, but you are as likely to be familiar with the principles underlying the account as I am, and I want to understand those. This account contains the whole series of dealings of this company with its shareholders and is, therefore, a very important account. I am sending for a copy for your Honors. That gives you two sums of money, one being interest and the other being 6 2-3rds per cent. of the profits divisible that year as a credit to the shareholders' account? A.—Yes.

Q.—Against that you have to pay the overdraft of \$647.54? A.—Yes.

Q.—You paid a dividend that year for the half year at 12 per cent. and another dividend at 15 per cent. for the other half year and you carried to profit and loss \$330.77? A.—No, we bring it down again, don't we?

Q.—I will eliminate that for the present because it will perhaps only confuse us in getting the method of the account. Then that left unpaid to the shareholders on this account \$11,075.46. That was a credit balance unpaid, you had that on hand? A.—Yes.

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Q.—Allocated to them but not paid to them? A.—As a balance, yes.

Q.—Then for 1893, similarly, you take interest \$4,256.07 and then 6 2-3rd per cent. of the profits, it is only \$2,046.50 this year? A.—Yes.

Q.—How do you account for that? A.—You see we used to divide only once in 5 years for all policies. Then some time in the nineties we adopted the plan of making the business of every year work its own quinquennial.

Q.—That is, if I were insured this year, and you next year, my quinquennium would occur a year earlier? A.—Yes.

Q.—And you would divide among those only completing their quinquennium in that year? A.—Yes, and this was a division of the newer policies, and that of the old. Hence it was larger.

Q.—Then you paid in dividends that year a good deal more than you had that year upon its own business, to give? A.—On its own business.

Q.—But you had the surplus from last year of \$11,000. Then that brought your surplus down at the end of 1893 to \$7,447.45? A.—Yes.

Q.—Similarly in 1894 you took out interest \$4,102.06, and 6 2-3rds per cent. of the profits that year was \$2,607.81? A.—Yes.

Q.—And you paid out your dividends at the 15 per cent., as before, bringing your surplus down to \$5,168.31 per cent. in this account? A.—Yes.

Q.—In 1895 you carried to the credit of the shareholders' account \$4,141.48 as interest; that would be the corresponding item to the other interest items we have seen 6-2rds of the profits \$4,043.98. It has gone up that year practically double what it was the year before? A.—Yes.

Q. Then here is "Accident Branch profits, \$2,000." What does that mean? A.—Well, it means what it says, \$2,000 carried from a balance to the credit of Branch Account, a strictly proprietary business, and all the profits of that belong to the shareholders. We carried to the credit of the shareholders \$2,000 from it that year and a much larger amount later.

Q.—This seems to be an arbitrary sum. A.—Simply to keep up the balance I suppose. I am giving simply my own idea, the secretary has to do with that.

Q.—You would understand from that item that the accident branch of the business which you say was strictly

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proprietary, in the sense that the shareholders alone were interested in the profits of it. A.—That is all.

Q.—Had some presumable surplus out of which to transfer \$2,000. A.—No, some actual surplus and today that account has somewhere about \$20,000 odd to its credit.

Q.—I won't quarrel with your use of the word actual; that was the theory, that there was an actual surplus. A.—Yes.

Q.—And \$2,000 was transferred from that surplus to this shareholder's account so that they might draw against that too. Then that enabled you to pay out your 15 per cent. dividend that year without lessening the credit balance. A.—So it seems, yes.

Q.—Then in 1896 we have interest as before \$4,100.22, and 6 $\frac{2}{3}$ per cent. of profits as before \$4,893.31. Out of those two sums you paid your 15 per cent. dividend and that brought your credit balance down to \$4,762.68. A.—Yes.

Q.—Then in 1897 you seem to have carried down interest the same as before \$5,871.13. It is a little more but your capital was increasing then, and then instead of 6 $\frac{2}{3}$ per cent. of the profits you seem to have gone down to 5 per cent. of profits declared. A.—Yes.

Q.—What is the cause of that? A.—Well, I hope you are not going to quarrel with us for having done that?

Q.—No, indeed. A.—The directors are voluntarily reducing their own share of profits. Instead of taking 6 $\frac{2}{3}$ per cent. we only take 5 per cent.

Q.—What was the cause that operated? Do you wish us to believe it was just—I was just going to say morbid generosity? A.—I won't say morbid generosity, but the liberal disposition of the board. I will back that up by saying you may take any company in the country and you will find none dealing more generously with policy holders than the Sun Life.

Q.—I am not going to cast any doubt upon that at all, apparently the five per cent. of the profits that year was \$6,000, whereas the 6- $\frac{2}{3}$ per cent. of the profits in the previous year had ranged \$4,893.31.

Q.—That is simply reproducing the figures in 1874.

Q.—That is another quinquennium? A.—Another quinquennium.

Q.—That is falling off as one would expect it to do? A.—Exactly.

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Q.—5 per cent. upon those profits would include 5 per cent. not only on the old policies, but also 5 per cent. on the new policies, attaining their quinquennium that year? A.—You are making out there, if I understand you rightly that we are first charging the policy every year which is a part of the quinquennium, and then afterwards—

Q.—No, I am not making any suggestion to your discredit at all, I want to make the thing plain, so that I myself might understand it. You had to make up that \$15,534.94. You had not only the profits at the end of the quinquennium on the old policies, which would be a bulk of policies but you also had the profits on the new policies attaining the quinquennium in that year, which would be a smaller sum? A.—Yes, all the profits, out of every hundred dollars. I think that is the clearest way I can put it, out of every one hundred dollars, we decided to divide that year.

Q.—Whether old or new? A.—They got five per cent. We never divided the whole surplus. We may have divided perhaps three fourths of the surplus, but whatever we did divide that year, the shareholders got five per cent. of it.

Q.—Then on the other side of the accounts you have dividends for the first half year, a certain sum, and for the second half year a certain sum. That is because of the introduction of new capital? A.—Yes.

Q.—Then you have stock dividend, \$12,500. That is what is charged up today to their credit? A.—Yes.

Q.—That has brought your credit balance down for this account to \$3,042.20. A.—Yes sir.

Q.—Then in 1898—now you have got your whole \$105,000 of capital out, and your dividends do not vary from that? A.—No.

Q.—They are \$7,775.00 each half year? A.—Yes.

Q.—In 1898 you had \$5,327.20 and five per cent. of profits \$6,376.96. Do you see that? A.—Yes.

Q.—Your divisions upon the new policies were increasing? A.—Why certainly.

Q.—Your new policies were increasing in number, therefore the profits—A.—At the end of the second period any business going into the old quinquennium would be included?

Q.—The shareholders overdrew \$1,025.53? A.—I did not keep this account. I am only following you.

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Q.—I am appreciating that, and do not wish to have you put in any embarrassment about it. This seems to be the old account and you can help me with the method. Apparently in 1898 the payments of these dividends overdrew the amount available in the shareholders accounts? A.—It looks like it, yes.

Q.—Then we have interest five per cent again, and we have proportionate profits, \$7,706.15, rising gain. Now what are those two sums? What is the nature of them, "profit sale of securities, R. D. Branch."? A.—This would be the proportion belonging to the profits of the sales of that year.

Q.—That is the first time I see that item in the account. Would that indicate that is the first time the item was so treated, or was it the first time it was so treated. A.—The first time it was so treated I believe.

Q.—It would not be the first year you had made a profit on selling securities? A.—Not very many years back that we were making much that way.

Q.—What is R. D. Branch? A.—That is Reserved Dividends. I cannot explain it.

Q.—Why are those not included in this?

Mr. T. B. MACAULAY: I imagine there was a distinction drawn because they were just coming in for the first time.

Q.—You paid your dividends and discharged your old balance, and the debit balance then rose to \$4,651.31, apparently. You overdrew at the end apparently. You overdrew at the end of that year to the extent of \$6,000 odd? A.—That arose through a mistake which I will explain further on.

Q.—In the year 1900 we see another \$4,000, transferred to the Accident Branch? A.—Yes.

Q.—And I suppose that transfer was made for the purpose of reducing the overdraft? A.—Yes, to assist in it.

Q.—To assist in reducing the overdraft? Yes, they were entitled to it. It was their own profit.

Q.—And I suppose the whole question as to whether or not there were profits to bring over? A.—Well there was.

Q.—It was right upon the theory you have given us, if there were those profits to bring over, but if there were not those profits to bring over, then it was not right? A.—If the

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profits were not there, it was wrong. If the profits were there, it was right.

Q.—The other items in 1900 do not call for any observation. They are not abnormal at all, and the debit balance is reduced slightly \$3,846.66 at the end of that year? Then in 1901, the only item there—well, there are two items. The interest does not call for any observation, but the proportion of profits does. The proportion of profits had fallen from \$7,353 to \$3,137. What does that mean? A.—I do not know.

(Mr. T. B. Macaulay explains the items to the witness.)

Q.—The explanation introduces a larger subject, and we will not commence the discussion of it now. In 1901 you were strengthening your reserve by transferring your divisible profits which you would have to maintain in reserve— A.—Yes.

Q.—The other item is profit on sale of securities? A.—Yes.

Q.—Do I gather from finding nine thousand dollars odd in that, that the policyholders got what would be ninety-five as against five per cent.? A.—That is my own impression.

MR. LANGMUIR: About \$140,000.

MR. SHEPLEY: This nine thousand profit on sale of securities would be five per cent. of the total profit made?

MR. T. B. MACAULAY: No. In the earlier years we had given the shareholders as large an interest as six per cent., and at that time we considered we had gone a little bit too far in robbing the shareholders for the benefit of the policyholders, cutting down their profits to give per cent., and we thought it was right to undo some of the injustice we had done in the past, and there are two items of nine thousand dollars, and another little item over there further on, that consists of just rectifying and allowing the shareholders up to six per cent. interest on their money. There is a full statement of it given in the voucher.

MR. SHEPLEY: Let me see if I understand it. For a certain number of years you had been allowing interest at 5 per cent. on the capital invested, to the shareholders? A.—Yes.

Q.—Then in this year you came to the conclusion that during all those years they were entitled to more, and you proceeded to put to their credit such a sum as would bring up the in-

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terest to six per cent. during the years in which it had been less?

MR. T. B. MACAULAY: Yes, that is right, except it was not exactly five per cent. before, but such a sum as the company might have earned, and on the other hand we excluded from the shareholders accounts any question of profits made upon investments, and in the long term of years I have a statement here showing the exclusion, not giving them any share of the profits on investment, and the amount put to their credit as the difference in interest practically very closely balanced each other. We considered we had been actually going just a little bit too fast in cutting down the proportion of the shareholders profits from the original twenty we had been giving down to ten, and 6 2-3 and then down to five per cent., and our desire was to make the company put right the injustice to shareholders, and we desired to rectify any little injustice we had done in the past, and this is one of the means that we took of doing it. We could have done like any other company for example, and gone back from the five per cent. to the ten per cent., but we did not wish to make any change and keep the shareholders percentage down low, but in order to do that and still give the shareholders reasonable profit we had to rectify any little injustice that had been done to them, and we considered that six per cent. interest was reasonable amount to amount to allow them, considering the risk they ran on their money.

MR. KENT: Don't talk about the risk your shareholders ran. As I have already stated, I do not consider there is the slightest risk. Perhaps it would be well to substitute another word for the word "risk." There is no risk to a shareholder in a life insurance company.

MR. T. B. MACAULAY: Thank you very much for saying so.

MR. SHEPLEY: I think it would be convenient, as was done in another case, that Mr. T. B. Macaulay should be sworn, and then he can give his evidence.

THOMAS B. MACAULAY, was then sworn, and stood alongside of the witness box.

MR. SHEPLEY: Let us have this a little cleared up, because you have introduced several elements that were not introduced into the original consideration of it at all. First you said as I understood you, I may have been quite wrong, first you said the

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shareholders had not received as much as six per cent. on the capital invested in the previous year, and that this was the time to improve their position so as to give them six per cent. Was that right?

MR. T. B. MACAULAY: In the former credit, in the interest account—in this item of credit.

WITNESS: That is correct.

Q.—They why is it called profit on sale of securities? Is it because you resorted to the profit on the sale of securities to a greater or less extent than you would have otherwise done in order to equalize the discrepancy in the interest?

MR. T. B. MACAULAY: I can only say I was very much surprised when looking up the account to find it under that heading and I cannot understand how it arose.

Q.—Where did you transfer the money from, because you could not put a credit here without a corresponding debit somewhere else?

MR. T. B. MACAULAY: Supposing we wait till the books are here, they will be here in a few minutes. I cannot remember these things exactly.

Q.—Perhaps it is better to wait till the books come for that. Then perhaps Mr. Robertson Macaulay now can proceed with this a little bit further. In the next year the interest was made six per cent., \$6,221. The proportion of profits was \$5,592.77. It was starting to go up again. Then those two sums together were not enough to overcome the overdraft in the previous year and pay the dividends, and I find that accident branch has \$30,000 carried from it to the credit of this account. Do you know about that? A.—Yes, it has between twenty thousand and twenty-five thousand dollars at its credit to-day.

MR. LANGMUIR: Q.—You are still doing an accident business? A.—No.

Q.—Is the branch in liquidation? A.—Well we were doing accident business. We issued policies with an endorsement carrying accident with it, and this accident running now is only upon those policies, and we cannot cancel them.

MR. SHEPLEY: Q.—It is the most trifling description now? A.—I do not think we have paid out one hundred dollars in the way of a claim in three years.

MR. T. B. MACAULAY: It is practically wound up, but not absolutely.

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WITNESS: So as I say the thirty thousand dollars here of profit at the credit of the branch belonged to shareholders. It was carried through to their credit, and there is still a balance of between twenty thousand and twenty-five thousand dollars, which will eventually be carried to the policy holders if not paid up.

JUDGE MAC TAVISH: Q.—But there is no liability? A.—In all probability one or two thousand dollars will cover all that we can ever possibly have in the way of a liability.

MR. SHEPLEY: Q.—Do you construct a profit side to your accident branch out of the expenditure that you have made in that branch. I ask you in other words whether or not this is not made to represent an asset consisting of items of expenditure in connection with the accident branch? A.—In what way?

Q.—In this way; you have an accident branch running for some years? A.—A credit profit could not come from a debit interest.

Q.—In 1891 you seem to have expended in your accident branch, \$16,602; in 1892, \$15,593. Then you dropped your accident branch specifically, and it dropped to \$1,787; 1894 to \$1,198; in 1900 only \$82 of expenditure. Now have you any asset to transfer that \$30,000 out of except this expense account? A.—How could we transfer from the expense account, debit expense account, an item to the credit of a profit account?

Q.—That is what I am very much interested in finding out. A.—It is not there. You cannot find it. Take our accident branch to-day, it is not costing five cents a year. Are we going to charge that with twenty thousand dollars of expense?

Q.—I should have thought not? A.—This is all from previous operations and we cannot charge it with expenses.

Q.—But where is your asset of profit in the accident branch if it is not the asset indicated by this expenditure? A.—The difference between the claims and the expenses united, deducted from the interests and so on, the balance is at the credit of that account.

Q.—That will be cleared up when the account comes, and we had better not talk about it perhaps further until it does come. Then we will follow it down a little further; transferring that \$30,000 to the accident branch left you a credit balance of \$24,000 at the end of the year? A.—Yes.

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Q.—In 1903, the proportion of profits dropped again to \$3,899.33. Do you account for that? A.—Well I cannot.

Q.—And the interest rose to \$15,465.29; so that the item like the \$9,000 up above, intended to equalize —? A.—I cannot explain that, —I will leave the actuary to do that.

Q.—In 1904, interest \$8,600.95. You must have been raising your rate of interest very considerably? A.—Not at all. It is simply the amount of interest increasing, and of course the five per cent. on the larger amount gave a larger profit to shareholders.

Q.—You were allowing this six per cent. in 1902 and 1903, I understand, and in 1901, and that six per cent. only produced about six thousand dollars. Now in this year you must have had a larger rate of interest because the interest is \$8,600.

MR. T. B. MACAULAY: It never was.

MR. SHEPLEY: Q.—Your capital paid out had not altered, it was \$105,000? A.—The amount of the interest would be larger.

Q.—You are adding the surplus at the credit of this account and calculating interest upon that as well? A.—Why, certainly.

MR. T. B. MACAULAY: Certainly.

Q.—Did you charge this account with interest when it was overdrawn?

MR. T. B. MACAULAY: Yes.

Q.—It does not appear here?

MR. T. B. MACAULAY: Then allow that much less.

WITNESS: Your accountant has gone over that very carefully.

Q.—I see here the profit on sale of securities forestalling future profit distribution. What is the meaning of that?

MR. T. B. MACAULAY: Perhaps I had better answer that. We had to face in connection with our shareholders, the fact, as I have already said, that we had gone further than was reasonable in the way of cutting down their proportion of profits, and we considered for instance on the new stock when we issued that at \$45 per share, and only gave 15 per cent. dividends, that meant our shareholders were only getting five per cent. upon their money, and running \$85 of risk per share; but on the other hand we could do like another company, and put the proportion back to 10 per cent., but we did not wish to do so, and that is why we made these changes that we have been talk-

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ing about, and then we could take into account the further fact that the shareholders are entitled to their proportion in reality not merely upon the profits paid out in any particular year, but upon the profits of the reserve, the profits upon the reserve dividend policies, and upon the general profits. I have here a little statement—

Q.—Does the statement bear upon this precise point?

MR. T. B. MACAULAY: Yes.

Q.—I am asking you about a specific item?

MR. T. B. MACAULAY: Yes. We had a large amount that they were really entitled to. That will just come in a little later on; and we considered five per cent. of the profits realized each year would be a reasonable thing, and the putting five per cent. to their credit as forestalling the amount they would be getting a little later, the deferred profit policy.

Q.—Before they were entitled to a profit in respect to any deferred policy, you put to their credit the policy from another source, because you did not think they ought to have to wait for the other. That is it in plain language.

MR. T. B. MACAULAY: The question whether they were entitled to it or not is a matter of opinion. One of the Toronto companies testified that it credited these stockholders each year as they went along, not merely with the amounts they paid, but the amounts put to the credit of the deferred policies. We had not been doing that in the past, and have not done so, but we thought it would be reasonable, seeing there was a very large amount they would be entitled to draw, we thought it was reasonable to let them get five per cent. on their money by forestalling to that extent.

Q.—I would be inclined to appreciate the force of that more if your item had simply said, "amount advanced for forestalling profit distributions," but it says, "Profit on sale of securities."

MR. T. B. MACAULAY: We had made a very large amount of profits on securities, and we put five per cent. of that profit from that sale of securities—that is how is fixed the amount that would be reasonable to put as a forestalling.

Q.—The profit on the sale of securities then in hand, did not, unless you altered your rule upon the division of profits, belong to the shareholders?

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MR. T. B. MACAULAY: It belonged to the company as a whole.

Q.—But not to this shareholder's account if you had been keeping the account in the method you had been keeping it?

MR. T. B. MACAULAY: No.

Q.—To take that in the interim out of the place it did not belong and put it here in advance of some other profit that this account might in the future be entitled to—that is, is it not?

MR. T. B. MACAULAY: Yes, and it is quite right.

MR. LANGMUIR: It is the actual profit on the sale of securities.

MR. T. B. MACAULAY: Yes, five per cent.

Q.—Actual profits?

MR. T. B. MACAULAY:—Yes.

Q.—You anticipated a profit?

MR. T. B. MACAULAY:—Yes, instead of waiting till this was given to the policy holders later and on to the shareholders they were entitled to their five per cent. not only to the amount paid, but a little later on to the whole amount, or if we had followed the book-keeping of some of the companies immediately, but we forestall and put that in at once.

Q.—If I explain it wrongly set me right, because it is important it should be put right. As I understand it the board of directors feeling that in a short time, two or three years, the shareholders would become entitled in the ordinary course of events to the profit in respect of deferred policies, not yet declared, but to be declared,—

MR. T. B. MACAULAY: But earned?

Q.—Earned if you like, but not yet declared. Instead of putting in the item you were forestalling the future profits, putting in an item, taking out of the profit on the sale of securities of five per cent. which has no business in this account as a matter of principle, unless the principle of account is departed from—that is right is it?

MR. T. B. MACAULAY: It is right all except the conclusion. I think it is perfectly justifiable to put in an amount forestalling in this way, and it is perfectly justifiable—

Q.—Because you depart from the hitherto principle of the account?

MR. T. B. MACAULAY: Yes.

Q.—And it could not be put there without departing from the principle you theretofore followed?

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Mr. T. B. MACAULAY: Yes, but we considered it a proper item.

Q.—I wanted to get the fact. Then the result of that was after taking out the fifteen per cent. dividend upon the \$105,000 paid up capital, the result was to raise your surplus again to \$33,452.24.

Mr. T. B. MACAULAY: Yes.

Q.—There is this last year, and I want to ask you about that, the interest there is \$8,220.79; so there is no falling off there. The proportion of profits \$6,435.94 as against \$24,000. the year before; profit and loss on investment \$21,896.14. What is that?

Mr. T. B. MACAULAY: It is exactly the same as the corresponding item of the previous year.

Q.—Exactly the same as \$7,300.

Mr. T. B. MACAULAY:—Yes.

Q.—It is different in amount but it is arrived at in the same way.

Mr. T. B. MACAULAY:—Yes.

Q.—And put there for the same reason?

Mr. T. B. MACAULAY:—Yes.

Q.—Anticipating some other profit?

Mr. T. B. MACAULAY:—No. anticipating profits already realized. I wish to emphasize that these profits were actually realized and in hand.

Mr. LANGMUIR:—

Q.—Why change the phraseology to profit and loss? A.—Because we took that from profit and loss on investment.

Q.—From that account?

Mr. T. B. MACAULAY:—Yes. In fixing the amount we said how much would it be right for us to forestall in this way. Well we have made a lot of money upon investment, let the shareholders forestall the five per cent. upon those profits which they will be getting a little later on. They are entitled in the course of a few years to five per cent. upon that identical money.

Mr. SHEPLEY:—

Q.—Let me get the thing put upon the same footing as the last item. You were again departing from the principle of the account in the same way and for the same reason as the year before? A.—Yes, but at the same time we defend it.

Q.—“Interest re premium on stock \$27,000 odd,” tell me what that is?

Mr. T. B. MACAULAY:—It is another point just following out along the same points. As I have mentioned, we think our company has been a pioneer in generosity towards the policy holders and one of the generous things we did was that we put that

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\$60,000, of premium that was paid in by the stockholders not to the credit of the stockholders, but to the general account.

Q.—I should think you would. That would be the place to put it.

Mr. T. B. MACAULAY:—That is where we differ. We consider it is not for the policy holders to make a profit on the money they themselves pay in without giving a profit to the stockholders, that is the way we look at the matter, there was \$30,000 paid up, issued at 90 per cent. a premium of sixty,—that was put in by the stockholders themselves.—

Q.—This is rather arguing the case. That really is interest from 1897 on the premium that the new capital paid on its stock.

Mr. T. B. MACAULAY:—Yes.

Q.—I want to ask you another question about that. When that premium was paid in it went into the general funds as Mr. Robertson Macaulay told me this morning.

Mr. T. B. MACAULAY:—Yes.

Q.—He also said—I do not know whether you agree with him or not—that the company did not need that money for its operations. I do not know whether you will agree with that or not.

Mr. T. B. MACAULAY:—I will agree with it to the extent of saying that we did not really need it but that the company was benefited by it.

Q.—From 1897 when that money came in down to 1905, the policy of the company remained unaltered in regard to that, that it stood in the general fund for the general benefit.

Mr. T. B. MACAULAY:—Yes.

Q.—In 1905 that policy was reversed?

Mr. T. B. MACAULAY:—Yes.

Q.—And you retraced your steps back to 1897, and credit the shareholders with interest; at what rate was it?, six per cent.?

MR. T. B. MACAULAY: Yes.

Q.—That is what was done?

MR. T. B. MACAULAY: Yes.

Q.—You do defend that I know, but I think, unless you feel very earnest about it—if you do I will yield—I think the explanation had better come in at another meeting?

MR. T. B. MACAULAY: Just as you like.

MR. SMITH: It defends itself.

MR. KENT: Don't you think, in view of the very harsh way in which your shareholders have been treated,

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according to your own account, and the risk they are perpetually running with the prospect of the 85 per cent. being called for, which perhaps they will never be able to pay, it would not be a good thing to return them their capital paid up and get rid of them in that way; and then avoid the difficulty, and then everybody would be satisfied.

MR. T. B. MACAULAY: I wonder what Mr. Kent would say to that proposition if he was a shareholder.

MR. KENT: I could not be a shareholder. I would look at it from that point of view.

MR. T. B. MACAULAY: I would like to emphasize that in this item that has been credited here, we have done not one solitary thing except to give the shareholders interest upon the moneys they themselves paid, without taking one solitary dollar from the policy holders, I want that emphasized.

MR. SHEPLEY: If it had not been unnecessarily put in, then the policy holders would have kept the money that was so taken away from them to pay interest upon it.

MR. T. B. MACAULAY: It would not have made a particle of difference to the policy holders, because their percentage was the same whether the capital was large or small.

Q.—It depended whether you made it the same?

MR. T. B. MACAULAY: We have surpassed all other companies in reducing it. There is no other company that has a smaller proportion as five per cent.—

MR. SHEPLEY: I think it would tend to the orderly presentation of the case if we proceeded in some other regular manner. I do not want to open a fresh controversial subject to-night.

Q.—The policy holders never had any voice in the management of the company? A.—None, that is as policy holders.

MR. SHEPLEY: I put in formally the answer of the company to the question addressed to them on that subject (Exhibit 590).

Q.—Then you have been good enough to furnish us with a careful statement of the circumstances in connection with the issue of the second lot of capital stock, \$200,000. You see it there? A.—Yes.

Q.—I have already gone through that with you, and I want to put in your formal answer, so that it will be on record before the Commission. (Exhibit 591).

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MR. SHEPLEY: For convenience of record we will put in the statutory conditions which apply to the company. (Exhibit 592).

The Commission adjourned at 4.30 p. m. on October 15th, till October 16th at 10.30 a. m.

EIGHTY-SEVENTH DAY.

MORNING SESSION.

Montreal, October 16th, 1906.

SUN LIFE ASSURANCE COMPANY.

ROBERTSON MACAULAY, Examination resumed by

MR. SHEPLEY: Q.—Have you thought in the interval of looking at that accident branch question, the question of the \$30,000? A.—No, I was not requested to do so.

Q.—No, you were not, and I am not blaming you at all. At page 22 of this book which is called Ledger No. 4 you see the account, the accident Branch? A.—Yes.

Q.—Now, it commences with a credit balance of \$4,866.01. You observe that? A.—Yes. That balance is brought from a previous ledger.

Q.—And that seems to be balanced year by year from that time on? A.—Yes.

Q.—Well then, you see there are some small entries for premiums and interest on the credit side of the account during the year 1899? A.—Yes.

Q.—Some small debit entries bringing down a balance of \$5,139.27. You observe that? A.—Yes.

Q.—For the beginning of the year 1900? A.—Yes.

Q.—Then there are similarly some small credit entries, and some small debit entries and the four thousand dollars carried to shareholders account, to the debit? A.—Yes.

Q.—That leaves you with a balance at the end of 1900 of \$1,454.26. You observe that? A.—Yes.

Q.—Well now, do you see any credit entries after that of any magnitude at all, any entries of moneys received on account of the accident branch? A.—From policyholders?

Q.—Yes? A.—No large amounts. There is no large amount possible in the way of premiums. The branch as a branch had been discontinued before then.

Q.—Or in the way of interest? A.—Not large.

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Q.—Or in the way of profits? A.—Not large.

Q.—I do see these entries in the year 1901 with the Canadian branch re expenses \$29,307.51, and foreign branch re expenses \$13,974.40, both on the credit side of this account? A.—Yes.

Q.—What is the significance of those entries? A.—The significance of those entries was this, that for every year as you will observe in that statement furnished, we were in the habit of charging in slump form—

Q.—What form? A.—Slump form; that is in one uniform fifty per cent. of all the premiums received. We were in the habit of charging accident branch, whereas the expense was very much more than that, and then came the question whether that was fair—

Q.—I have no doubt that is quite clear, but I am very slow and I want you to make that clear to me. I do not understand it yet. You were in the habit of charging in a lump sum at the end of each year what? A.—The expense branch at fifty per cent.

Q.—Of what branch? A.—The accident branch.

Q.—To what branch did you charge that? A.—The accident branch.

MR. T. B. MACAULAY: Here is the actual voucher put in at the time.

MR. SHEPLEY: I am aware of that, but I want the explanation.

WITNESS: If you want an explanation of the actual entries you will have to refer to the actuary or secretary, because I was not present doing this, and I can only give what I presume is the explanation, but I must leave him to go into the details.

Q.—It is not the details I want. It is principle. It is the principle upon which these entries were made. I do not care anything about exact figures at the moment. On the 31st December, 1901, the entry is "By Canadian re expenses \$29,000 odd. I asked you what the significance of that was, and you started an explanation which I did not understand. All I want you to do is to make me understand the explanation. I am not quarrelling with it at all, but I want to understand it? A.—The explanation of this was supplied in print to the Commission, and as I say if you let me read that I will explain it. The explanation is there, but if you want to get the explanation in full call for the person that made the entry. Do not ask me. It is equivalent to asking a person to explain a patent with which he has nothing to do.

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Q.—If you say you cannot explain it, that is one thing? A.—I am not here to explain what I have not done. It is enough for me to explain what I have done. Let another person who made the entries explain it.

Q.—You will tell me whether you understand it in a general way yourself? A.—In a general way it was simply a credit to the branch account for the purpose of carrying it to the credit of the shareholders.

Q.—That I can understand? A.—You want to throw a load onto the shareholders. I am quite prepared to let that go.

Q.—Do not say I am trying to throw a load anywhere. I am trying to find out what the moneys were that went to the shareholders account? A.—The moneys that went to the shareholders account of the accident branch in previous years, was the overcharge in regard to expenses which is now being returned in this form.

Q.—What you say is, that the accident branch received less than it should have received, because it was charged with too much expense? Is that it? A.—The accident branch received all that it was entitled to receive, but it was overcharged with the rate of expense.

Q.—The rate of expense with which it was charged was arrived at upon some principle? A.—The principle was simply ascertaining what the actual cost was, and at that time all through those years charging fifty per cent.—now, I want to make this as plain as I can, that during all the years when we charged the accident branch with fifty per cent. for the expenses, we were overcharging the accident branch with the actual expense, and the time came when we thought it was right we should reverse that and let the shareholders get the benefit of it.

Q.—Fifty per cent. of what? A.—Of the premiums received.

Q.—Fifty per cent. of the premiums received were charged as expenses? A.—That is my recollection.

Q.—And what you say is that that was an overcharge to the accident branch, because the expenses of the accident branch taken by itself did not amount to anything like fifty per cent of that? A.—Did not amount to fifty per cent.

Q.—You are beginning to make me understand it. Then in the year 1901

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you undertook to rectify that, or attempted to rectify that? A.—And did rectify it.

Q.—And you did it by crediting to the accident branch this sum of money or two sums of money? A.—Two sums of money.

Q.—One from the Canadian Branch and the other from the foreign branches? A.—Yes.

Q.—How did you arrive at those sums, or perhaps you cannot tell? A.—I leave that to the actuary.

Q.—That you are not prepared to tell me? A.—No.

Q.—You can probably answer this question, and it will be in the record in the proper place. But for these transfers in respect of expenses you would not have any \$30,000 in the accident branch to put to the credit of the shareholders' account? A.—No.

Q.—This explanation will not be forgotten, it will be part of the record? A.—All right.

Q.—Then we pass on from that to another subject. Had you in any assembled form a similar account to the shareholders for the policy holders? or I will put it a little differently, an account for the policy holders in a similar form to the account for the shareholders? A.—I do not exactly follow you.

Q.—You see we have been going through the shareholders' account, showing what moneys were thought to be properly put to the credit of that account, out of which dividends could be paid to the shareholders. That is what we have been doing yesterday afternoon and this morning, discussing that. Now I asked whether you had for the policy holders an account prepared upon similar principles to the principles governing the shareholders account? A.—Well I presume there is, but really I cannot give that at the minute.

Q.—Then I will not trouble you to tell me what you do not know? A.—It has not been my business to follow out the book-keeping for many years.

Q.—I can quite understand that, and I am not going to trouble you with things you cannot tell me. Can you tell me all the various branches of departments you kept accounts with in your books, or can you remember them if I suggested them to you? The Canadian Branch? A.—Yes.

Q.—What would that be supposed to show? A.—Well I forget now how many branches we have, whether we separated the foreign into countries or

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not, I am sure, or whether we simply have two accounts, foreign and Canadian, I could not tell you.

Q.—Let me tell you what we have found, what seems to us to be the fact. You seem to have first the Canadian Branch, second a Foreign branch, third a Citizens branch—A.—Oh, that was the Citizens Insurance Company. That was wound up some years ago.

Q.—Then you have the accident branch? A.—Yes.

Q.—The clergy class branch? A.—Yes.

Q.—The Canadian Thrift Branch? A.—Yes.

Q.—The Foreign Thrift Branch? A.—Yes.

Q.—And the Annuity Branch? A.—Yes.

Q.—Do you think of any others but these? A.—I did not know whether the foreign had been subdivided into countries or not.

Q.—It does not seem to have been subdivided into countries so far as our information has enabled us to go? A.—No.

Q.—Let us take those one by one, just for the purpose of getting the theory and the principle upon which these accounts were kept. The Canadian Branch account—what would that show? A.—The Canadian Branch would show—I would require to refer to the accounts to see. It would show all these premiums that had been brought in, and I presume it would show the interest accrued, and I suppose its proportion to expense, and I dare say also its proportion of death claims.

Q.—Would it indicate the growth of surplus in that branch of your business? A.—Well whether in that particular account, or whether that would be done as a subsidiary matter without disposing of the profit and loss account, I am not prepared to say. I am not familiar with it. That is a matter of record which the books will show.

Q.—Then whatever treatment that account received, the various other branch accounts to which I have referred, would also receive? A.—I have no doubt whatever.

Q.—You have no doubt of that? A.—No.

Q.—Then you had two other branches which have been closed, the reserve dividend branch, and the deferred profit branch. Do you remember those?

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A.—No, I do not, I have had nothing to do with them.

Q.—Then you have not on your books any account showing legal reserve? A.—Well, that I am not perfectly sure about. The actuary can tell you that better than I can. These are mere details of book-keeping, and I am not familiar with them.

Q.—I am going to ask you some questions with respect to this account. I will have this account numbered so that it will be referred to as a definite number (Exhibit 593). If, when I direct your attention to what this document is, you think Mr. T. B. Macaulay could answer better than you could about these matters occurring in it, I am quite content that you should give way to him. A.—I will tell you what I know, and what I don't know I will let the other attend to.

Q.—I suppose if there is part of the account he knows better than you, he will know all the account better than you? A.—Yes, I admit that before I go into it.

Q.—This is an account which is furnished as profit and loss on investment. That is what it is called on the outside, but seems to have had two other names in the prior book; profit on sale of securities; the intermediate name was "profit and loss on sale of securities," and the final name "Profit and Loss on Investment." Are you aware of those accounts? A.—I know such things have happened, but I think it would be better that the secretary, who has had the compiling of those, should go into them. I sustain them, and I will abide by them.

MR. SHEPLEY: Then I will talk it over with the other Macaulay.

T. B. MACAULAY, (recalled). Examined by Mr. Shepley.

Q.—You were sworn yesterday. What is the theory upon this account was originally opened—profit on sale of securities? What was it intended to show? A.—It was intended to show any profits that might be realized from the sale or maturity of securities and any losses likewise that might occur in the same way and in the same manner, anything that might be written down for example.

Q.—What is indicated was that profit on sale of securities, and I think you did not do any writing down in that account until you changed its name. Will you say how that was? A.—I do not think we ever changed its name.

Q.—My information is quite different. A.—Would you mind turning up the account?

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Q.—It is first profit on sale of securities, next profit and loss on sale of securities, and thirdly profit and loss on investments. Is it in that ledger? A.—I do not know.

Q.—Look at page 297 first, and then 399. That is headed, "Profits on sale of securities," you see? A.—Yes.

Q.—Go to page 399? A.—Yes.

Q.—How is that headed? A.—Profit and loss on sale of securities.

Q.—Then take page 414 and see what it is called there? A.—Profit and loss on sale of securities, and profit and loss on sale of investment. That is the heading on the next page, and profit and loss continue right on from one page to another. The name was changed but the first title, "Profit on sale of securities" was never intended to be any different from "Profit and loss on sale of securities." There was never any different intention, and that is proved conclusively by the fact that the first entry in that account was a loss; but evidently it was thought that profit on sale of securities was not a sufficient name for a thing that described a loss, and then when you turn over another page it was profit and loss on sale of securities, it was felt that that was too narrow and it was changed to "profit and loss on sale of investment."

MR. LANGMUIR:

Q.—Were there any writings down in that account, or was it an absolute sale? A.—Generally absolute sales, but I think from memory, that there were some writings down also.

MR. SHEPLEY:—

Q.—We will get to this, and you will find when we get to them—I do not say there was any significance about it, I do not know, but it was after the name of the account had undergone a change. However, that is immaterial, I do not think there is much in the name. A.—Originally we had one profit and loss account which included every kind of securities, and I remember myself saying that we ought to make a division, and that ordinary profits and losses that had nothing to do with investments, ought to be kept in the ordinary profit and loss account, and profit and loss that had to do with investment, should be kept in another account. It was just a division off from the ordinary profit and loss account.

Q.—Then at the end of the year 1899, which is the earliest year dealt with in the account as you kept it,

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you carried down a profit or \$9,141.20, all of which was realized from the sale of securities. That is absolutely right, is it not? A.—I think so.

Q.—All of which was realized from the sale of securities? A.—After deducting a loss of \$37.

Q.—Your method of treating the balance existing at the end of the year, was to divide that among the various profits? A.—Yes.

Q.—You gave \$5,800 odd to the Canadian branch, \$2,180 odd to the foreign branch, \$543 to the Citizens branch, \$6 to the accident branch, \$53 to the Clergy class branch, \$9 to the Canadian Thrift branch, \$384 to the Annuity branch, and \$131.85 to the shareholders branch: that is to the shareholders account we were examining yesterday? A.—Yes.

Q.—Are you able to say the method that was adopted in arriving at those figures? A.—The system that they followed in that was to total up the amount at the credit in the company's book, to the credit of these different branches, and to make the total of them and distribute this in proportion.

Q.—Pro rata? A.—Pro rata over the whole.

Q.—That was the method which was being adopted in those years, and a method which I suppose you adopted because you considered it to be fair? A.—Yes.

Q.—And that is the method which you subsequently thought was not fair to the shareholders? A.—We subsequently made it—

Q.—Did you think subsequently that that method had not been fair to the shareholders? A.—We thought it did not do quite justice to the shareholders.

Q.—It is the same thing? A.—Yes.

Q.—If it did not do justice it was not fair? A.—But I would like to explain that the shareholders would have made more in the end if we had not made the change, because by giving them six per cent. and no share in this, they actually got less than if they got the interest that was coming, and the share of the profits, because the profits were large.

Q.—That was the method you were adopting then, and the method which was supposed when you made the change, not to do injustice to the shareholder? A.—No.

Q.—Your Canadian branch had much the lion share of that division? A.—Yes.

Q.—During the year 1900, the account changed much. You lost \$100

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on selling certain securities, and you realized two sums of \$223, and \$949. So that you had for that year a balance of \$6,072.50. You observe that? A.—Yes.

Q.—And that again, so that we may have this clear upon the record, was a sum which represented actual dealings in the securities you had and no writing up or down for fluctuation of the market, or anything of that sort? A.—That is right.

Q.—Then you divided that account between the same branches as the year before? A.—Yes.

Q.—The largest benefit going to the Canadian branch at \$658, the smallest to the Canadian Thrift Branch, at \$2.37, and the shareholders got \$1,362 out of that dealing? A.—Yes.

Q.—In the next year 1901, your dealings began to become much more numerous? A.—Yes.

Q.—Your sales? A.—Yes.

Q.—And if you will then glance your eye over the year 1901, and tell me whether or not during that year you registered in this account anything besides actual sales on either side? A.—The profits consist of solely, so far as I can see, of profits actually made by actual sales. The debits include certain amounts—one or two amounts of losses and several items of expenses, for instance express charges on shipment, of bonds, insurance of bonds, and a number of smaller items like that, but everything cash, no writing up or writing down of any kind.

Q.—There were some little expense items, but they do not affect the principle of the account for that year appreciable. So we may disregard them as being too small to be considered. Then the result of your operations that year was that you carried down a balance, the actual cash balance on the turn over of the securities of \$41,049. A.—Yes.

Q.—That was to the good? A.—Yes.

Q.—You had made somewhat larger loans that year, than you had made before. You had made a loss of \$2.915 in certain— A.—British Columbia Dyking Bonds, Guaranteed—interest guaranteed by the Government.

Q.—I see there is a charge here for commission? A.—That was a commission on Nanaimo bonds that, after having agreed to take them, some information came to our knowledge that made us desire to not complete the transaction, and in order to get out

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of taking them, we paid the brokerage commission to be relieved of the obligation of taking the bonds which we did not want to take after hearing some things.

Q.—Then there is the Pleasant Valley Railway—you made a loss there?

A.—Yes, that was a guaranteed stock.

Q.—\$1,358 there? A.—Yes.

Q.—And small losses which I will not recapitulate. Then you had profits. I see you were dealing in industrial stocks, the Canada Cotton Company bonds? A.—We had 2,000 of those I think.

Q.—On the principle that was spoken of by Mr. Robertson Macaulay yesterday, you thought you had power to deal with those? A.—We had no doubt about it at all.

Q.—Well you put it more strongly than I do. I said you thought you had, and you said you had no doubt you had? A.—Yes.

Q.—What is the Pressed Steel Car Company. That is an industrial company too? A.—That is a very large corporation in the United States, large manufacturers of steel cars. Although industrial, it belongs to the class that is specially authorized by the Insurance Act. The Insurance Act specially authorizes rolling stock companies, and that was a rolling stock company, so that it was strictly and absolutely within the letter of the Insurance Act.

Q.—You distributed \$41,049 in the same way, but that year the shareholders got a much larger proportion than they had in the previous year. That was the year they got the \$9,088? A.—That was the year when we made the correction giving them six per cent. interest, and we charged that amount to this account. We first of all credited the shareholders with the difference to make up the six per cent. interest on their funds, and then distributed the balance exactly as we had always done before.

MR. LANGMUIR: Q.—Was that the commencement of that system? A.—Yes. Well from that time on, the principle prevailed of giving the shareholders six per cent. and nothing out of the—

MR. SHEPLEY: We will see about their getting nothing a little later on. At all events that is what you were then doing. You were ceasing to give them out of this account a specific sum or specific allocation of profits derived on the turn over of the securities, and giving them instead a rate of six per cent., having gone back and corrected the rate. I suppose

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in adjustment you took into consideration the fact that they had been receiving a share of these profits? A.—I think so.

Q.—You think so, but you are not clear about it? A.—It was a very small amount at that time.

Q.—It was not large at that time? A.—No, I would not like to say without looking it up.

Q.—I would like you to glance over the next year, 1902, and see if that is all real transaction by way of sale of securities? You may disregard this cross entry altogether on both sides. I am eliminating that in my own mind, and won't complicate the thing by an account of the cross entry? A.—The profits in the year 1902 that are in this account appear to have been exclusively from actual sales.

Q.—That is the credit side? A.—The credit side. On the debit there are certain losses on sales of securities, and certain small expenses as before, and certain other items which we had written down. For example—

Q.—Do not give them as examples. Just say exact what the writings down were, in all the securities? A.—There was an item of \$35,756 written off interest accrued upon a large mortgage in the city of Montreal, the Beaudry Estate mortgage, which we wrote off out of this. There was an item of \$257 upon another mortgage which we wrote off.

Q.—That was the Bradshaw mortgage? A.—Yes.

Q.—\$257 on the Bradshaw mortgage? A.—Yes. \$19,665 written off of the bonds of the People's Light and Heat Company of Halifax. So far as I can see those are the only items.

MR. LANGMUIR: Q.—What were the gross profits? A.—The gross profits came to \$107,000.

MR. SHEPLEY: That is the gross profits on sale of securities? A.—Yes.

Q.—And the balance you carried down after those writings off that we have heard about, \$42,675.10, for the year? A.—Yes.

Q.—Let us go to the writings off. You find the two, the Beaudry estate interest and the People's Light and Heat Company of Halifax, \$19,665? A.—Yes.

Q.—Explain those one by one. Tell me what exactly is the significance of those writings off? A.—We had a large mortgage here on the Beaudry

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estate property which we of course thought was a first-class one when we made it, but it did not turn out to be first-class and there was a lot of interest due on it. Instead of continuing to carry that amount in our account, the accrued interest on that, we just considered we had now made enough profit on this, and we would just use that amount to wipe out of our account this interest.

Q.—You had foreclosed the Beaudry mortgage, had you not? A.—What year was that?

JUDGE MacTAVISH: 1902.

WITNESS: Yes, we had—at least I think so. In that case I must correct what I said, if we had foreclosed, I will retract what I said if we had actually foreclosed it.

MR. SHEPLEY: Q.—I want you to satisfy yourself with regard to that and ascertain whether or not you had kept an account of this interest with the Beaudry Mortgage and returned it as an interest asset in your return to the Government? A.—That property was foreclosed in that same year, June, 1902, whether in the previous year we had taken an account of the interest or not, I cannot tell, but the return of our mortgage which the commissioners already have, if they will produce that book, we can at once tell by referring to it.

Q.—What book is that? A.—It is the book we furnished to the Government—quite a book, returned to the Government. Mr. Talbot tells me the Commission has it.

Q.—I thought perhaps you could tell from your own book? A.—That is our own book.

Q.—I mean your books of account in which these matters were entered? A.—We have not them here. If you turn up that we might tell.

Q.—Mr. Ross is looking for it now, but perhaps in the meantime you can get on and tell me about the People's Light and Heat Company of Halifax, a balance written off \$19,665? A.—May I refresh my memory about that?

Q.—By all means? A.—I cannot carry all these dates in my mind.

Q.—You may have all the assistance you need to enable you to answer what I am asking? A.—I can explain a little about it if you like; that People's Light and Heat Company is a Halifax gas and coke company, that we bought the bonds of, several years previously, and that got into financial trouble, and was afterwards absorbed by the Halifax Tramway Company. There was a considerable

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loss on its bonds. We had \$44,000 of them I think, and we made a considerable loss upon them, when the property was finally taken over by the Halifax Tramway Company, I cannot without referring just say when that date was, when we wrote off the \$19,000. We used the profits on this to make good the loss on that.

Q.—What was the transaction by which you ascertained you were making a loss? A.—I will have to wait for that.

Q.—You will go on in the meantime to deal with the balance you carried down that year, \$42,675— A.—It was in that very year, that that Halifax Tramway Company took it over, so this loss was an actual loss and not—

Q.—They took it over paying you what sum? A.—They paid us in stock of the Tramway Company, and therefore this was an actual loss.

Q.—That is a fair explanation, and enables you to class it as you did. You were not paid in cash, but in stock of the other company? A.—Which stock we still hold.

Q.—And that stock you were able to value? A.—Yes.

Q.—And valuing that stock at what it was then worth—or did you value it at its face, or how? A.—I will have to look that up. My impression is that we valued that stock at par. I would not be positive.

Q.—At all events whether you valued it at par or at some other value which you believed to be the correct value, the result was a loss, which you treat as a loss? A.—I can tell you in a minute. We took that stock at par.

Q.—Valuing it at par, you sustained this loss, and that naturally takes its place on the debit side of the account as a loss on the sale of securities? A.—Yes.

Q.—Now are you ready for the Beaudry interest? A.—No, we have not that here.

Q.—There is some books which they say you had, Mr. Ross,—the explanation of which I did not quite understand. A.—We have that book showing the mortgage and outstanding interest we furnished every year to the Government which you have got. It is a long brown covered book, which opens way out wide.

Mr. ROSS:—I do not recollect seeing it.

Mr. SHEPLEY:—

Q.—What makes you think it was handed to the Commission? It would

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be in the custody of the Government you know. A.—No, it is in our custody, we keep it. I have just been told it is sent in to Mr. Fitzgerald. That is a different thing.

Q.—Can you with assistance from your accountants, or whoever is familiar, rummage it out from the ledger for me? A.—Mr. Talbot says that without that book he could not tell very well. It would take some trouble to look up, but he is pretty sure that was included in the figures for 1901.

Q.—Perhaps you will have a little trouble taken with that during the adjournment and see if you can get the account, because I shall want that explained? A.—Yes.

Q.—At all events, whatever the explanation it involves this perhaps it involves more, according to the explanation, but it involves this in any view of the explanation. That you made a certain loss on a mortgage security, or you failed to receive certain interests that you were entitled to receive, and that you—I was going to use an unhappy expression—that you made it good at all events out of the profits on the sale of securities, so that it did not appear as a loss in your government returns? A.—We treated it no differently from any loss made on any security. We just put it on exactly the same footing as a loss made on any security.

Q.—It did not appear in your government return? A.—No, it was not necessary it should appear. We treated it just precisely the same as if it had been—

Mr. LANGMUIR:—

Q.—You credited the interest as if it had been received, and then when you found it was not received you wrote it off? A.—Well we wrote it off in that way—we just put the one thing against the other, and wrote it off as a loss.

Mr. SHEPLEY:—

Q.—If in truth and in fact you did not make a return of that interest to the Government at all, then what about this entry? A.—Well there was a loss there in any case, whether we returned it or did not return it, the loss was there, we made the loss.

Q.—But if you did not return it to the Government you would appear now to be getting out of the profits of the sale of securities, this interest paid? A.—Yes.

Q.—However we will deal with that more when you get the actual explanation. Perhaps we are not making

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things clear about that. Then your balance \$42,575 for that year 1902, was distributed as before, except that there was nothing given to the shareholders. You will look at that? A.—Yes.

Q.—And you were then following, as I understand you, the same pro rata method of apportioning this amount among the various branches? A.—Yes.

Q.—The next year brought a good many transactions; 1903. I would like you to take a look at that. You may disregard cross entries that have a red cross opposite them, because those I have eliminated from my consideration of the items. Tell me similarly with regard to these transactions. A.—The figures for the year 1903 appear to include only actual profits and actual losses on sales on both sides of the account, with the possible exception of an item of \$200 here which I do not just understand; "Fisher and Co. cancellation and sale," on the credit side. I don't remember what that is at all. With that possible exception the entire amount consists exclusively as I have said. Wait a moment, it goes over the page. I was speaking with reference to the first page. You do not mind my asking the accountant about this?

Q.—Not a bit. I want information and accuracy is worth waiting for. A.—The entries for 1903 include in the receipts, in the profits, solely and only actual cash profits made by sales with the possible exception of the \$200 I have already mentioned, and with the exception of an item of \$25,000 here which I had entirely forgotten about and do not remember very much about now, but which I am informed was an amount which was used to adjust accounts, adjust values, increasing the ledger value of the bonds of the Montreal Terminal Railway and writing off an exactly similar amount of the bonds of the Michigan Telephone Company. Putting the one against the other, an item of \$25,000 on each side. I had entirely forgotten the item myself but I am informed that that is what it is.

Q.—On Michigan Telephone Bonds you have a debit entry of \$25,000. The ostensible appearance of it on that side of the account would indicate that you have sold the Michigan Telephone Bonds and made that loss. On the other hand, on the credit side you have Montreal Terminal, an entry which ostensibly shows that you had

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sold Montreal Terminal and made a gain of \$25,000. That is the way it appears in the account, but the fact was that you did not sell either; you wrote up Montreal Terminal by that \$25,000 and wrote down Michigan Telephone by \$25,000. Now, what was the object of doing that? A.—In the first place, while the fact is, I understand, correct that there was \$25,000 written down on the one, and \$25,000 written up on the other, I do not agree that putting it into this account means or even implies in any way at all that we had actually sold these things. It is customary in any and every business to write off things for depreciation, to profit and loss account, and it is not only actual sales that are put to profit and loss account.

Q.—But this is not a profit and loss account, it is an account purporting to show the profit made and loss made on sales of investments. A.—We have changed that in order to make it more descriptive. "Profit and Loss on Investments" and that was all along the intention of the account; it was a mere subdivision of the old profit and loss account. While we agree upon the facts I do not agree at all that there is any construction that can properly be put upon it that it meant that we had or had not sold. Apparently we looked upon the Montreal Terminal Bonds as having increased in value and being worth a good deal more and we wrote down the ledger value, wrote the one against the other, the Michigan telephone bonds which had depreciated in value; we charged one and credited an equal amount to the other. It made no difference at all in the company's financial standing; it is just that we take one and put it against the other.

MR. KENT: Is it an entry in the cash book? A.—Yes, our cash book is a sort of journal. It went through what we call the cash book, which is a sort of journal. It was put through not as a cash entry.

Q.—Your cash book, although a journal, is headed "Cash book?" A.—Yes.

Q.—It is supposed to be a cash book? A.—We put into it not only cash items, but we have no journal and it does the work of the journal besides.

Q.—Don't you think a company like the Sun Life should keep a journal? A.—We have had this system from the foundation of the company and it has worked admirably. I see no reason for making a change.

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Q.—You will not find a single accountant in the city who says it is the proper way to keep books. A.—It has worked thoroughly satisfactorily with us and I do not see the need of having another book.

MR. SHEPLEY: It is very unsatisfactory to an accountant examining your books and wanting to find out the reality of transactions. A.—That is a matter of opinion. I do not pretend to be a bookkeeper.

MR. KENT: An accountant will tell you that a cash book should be for cash entries only and not used as a journal. That is simply misleading and may lead to the presumption that it was done with the intention to mislead? A.—I might explain, Mr. Kent, that we have our cash blotter, which is kept by our cashier and which includes solely and only cash entries. Our cash book, as we call it, is really a journal as I understand book-keeping, and the difference is in the name. If you want to know what is really our cash book you have to take the book kept by our cashier.

Q.—To some of the offending companies I have been suggesting that they should take pattern by the Sun Life. I am rather afraid I have gone too far? A.—I am pleased that you had such good confidence in us and I hope it will not be misplaced.

Q.—Any way it is quite clear to any auditor that you ought to immediately open a journal? A.—I would be sorry to argue on a book-keeping matter with such an authority as Mr. Kent, but there is this point to be remembered, that the number of journal entries that we would have as distinguished from cash entries in a year, would be very, very few, and the so-called journal would be a book of very small proportions.

Q.—You do not take a book like that when you have only one or two entries, but the necessity for a book is evident to every accountant. No company should put any entries in its cash book that are not cash. That is elementary? A.—I do not want to argue the thing with Mr. Kent, but I would just like to state that our cash book, while called the cash book, we have always argued that it was really a journal because it included both cash and other entries.

Q.—Then you should head it "Journal" and not "Cash Book?" A.—I quite agree with you that the name ought to be changed, but that does not

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really mean that the book ought to be changed.

Q.—It should be either journal or cash book; at present it is a mixture of the two. If you say it is a journal, then it is wrong, because there are cash entries that should not be found in any journal. So you must either stand on one stool or the other?

A.—I confess I do not know enough about book-keeping to argue it at all. We have a cash book as Mr. Smith says apart from that book altogether, but your suggestion will be considered very carefully Mr. Kent. I will take it up with our auditors.

MR. SHEPLEY: At page 969 of your cash book this transaction appears; under the date of the 7th December there are two items: "Profit and Loss on Securities." "Amount in Ledger as value Montreal Terminal Stock." That is carried out under the head "Sundries," \$25,000. "Bonds, Michigan Telephone, amount written off Ledger value," that is under bonds, that is \$25,000. That is this transaction or part of it? A.—Yes.

Q.—Then I was asking you, what was the reason for doing that, inherent in the securities themselves, at that time? A.—The Michigan Telephone Company had got into trouble and its securities had deteriorated and we thought it was desirable to write them down; on the other hand the Montreal Terminal Securities had appreciated, and we readjusted the values by putting that much, one against the other. I had entirely forgotten this entry until it was brought to my memory just now. Wait a moment, I am informed that that is reversed again, a few days later it was changed.

Q.—I know what was done a few days later and I am going to ask about that in a minute, but it was not put through as a reversal entry. Are you able to tell me anything further about that? A.—I am getting a part of it, I think.

Q.—I suppose you want to see this book before you tell me anything else? A.—If you please.

Q.—You do not connect this in your own mind with anything but you have been told that there is another entry? A.—I have forgotten about the whole thing.

Q.—Do you see that it is not a reversal entry? It just emphasizes the thing I wanted to get from you before you saw this entry? A.—You are talking about something I do not know about.

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Q.—You can find out about it? A.—Now, I have got it. I find that while that entry of \$25,000 was put through as I have said on the 7th December, that on the 31st December it was entirely cancelled and reversed by two entries, one of \$5,000 and one of \$20,000 crediting the Terminal Company and debiting the Telephone Bonds, those two items making \$25,000. Those reversing entries should have gone right through as reversals through profit and loss. They should have done that so as to absolutely reverse it, but instead of that they went direct from one account to the other, which reversed it just the same without going through the middle account. But the substance and fact is that the whole thing was reversed and the entry we are talking about never went through.

Q.—It certainly went through; half of it went through in your profit and loss on sale of investments account?

A.—It is a mere error of the book-keeper not making a reversal entry, in which case these two things would have been taken right out; but it was in effect absolutely cancelled and cancelled in the same month within a few days, so that it shows we thought of doing it and never did it. That is all there is to it.

MR. KENT: You want to get credit for some good intentions.

MR. SHEPLEY: On the 7th December you wrote down the Michigan Telephone Bonds by \$25,000 and you wrote up the Montreal Terminal Common by \$25,000? A.—Correct.

Q.—On the 31st December you wrote down the Montreal Terminal by \$20,000 and wrote up the Michigan Telephone by \$20,000? A.—Yes.

Q.—And subsequently, on the same day, there is an entry in your cash book further writing down the Montreal Terminal by \$5,000 and further writing up the Michigan Telephone by \$5,000? Now that is the state of the entries A.—Yes.

Q.—Now I ask you again, why did you on the 7th go through that form, what had you in view? A.—As I have already mentioned the item had entirely escaped my memory and the fact that it was reversed is the reason why it escaped my memory, but evidently we had thought of making this readjustment of values and a short time afterwards changed our mind.

Q.—Why did it find its way into your profit and loss on the sale of investments account. A.—For the reason

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I have already mentioned, that if it was to go through at all, that was the proper place to put it.

Q.—But this is furnished to us now as being the state of your profit and loss on the sale of investments account, and you have what you call a reversal entry. Be that as it may you have an entry subsequently in your cash book which, if it was a bona fide entry would altogether alter that account. A.—These two items balance each other here and it was a mere bookkeeper's error that the thing did not go through this account as it should have done, in which case there would have been reverse entries. That is a mere matter of bookkeeping.

Q.—If you mean by that that it does not make any difference what the value of any particular security may be that is in this account, so long as the whole is of a certain value, then I will understand what you are talking about. Otherwise I do not. A.—I don't mean that. What I mean is that I have already shown clearly that this entry was reversed; that it was not allowed to remain on the books; that it should have been reversed through this account, but that was a slip of the bookkeeper and that in effect the entry which we are talking about was cancelled and annulled, no longer exists and these two entries here which are put on opposite sides should in reality be eliminated as having no bearing on the account.

Q.—That is, you did not think it desirable to write down the Michigan Telephone Bonds and you did not think it desirable to write up the Montreal Terminal stock. A.—We changed our minds, that is evident.

Q.—In the result you did not think it desirable to do that? Were these stocks fluctuating at this time in your opinion? A.—Stocks or bonds.

Q.—Either of them, these securities? A.—The Michigan Telephone Bonds—I may say that the Michigan Telephone Company was the Bell Telephone Company for the State of Michigan. It was in financial trouble and its securities certainly had deteriorated. On the other hand the securities of the Montreal Terminal Company in our judgment—and that judgment has been confirmed by results—had improved.

Q.—And therefore you thought it desirable to make this entry on the 7th December. A.—At that time we evidently did.

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Q.—Then why did you think it desirable to make the other entries on the 31st December? Had the condition of things changed? A.—You are asking me about a thing that has entirely passed from my memory.

Q.—You do not profess to say that the financial position of these two concerns had changed between the 7th and 31st? A.—It runs in my mind—the thing is gradually coming back to me—that the reason why we did not do this was that something had arisen in the meantime in regard to the Montreal Terminal which made me doubt the wisdom of adding that value to its stock. There was a change, not in regard to the Bell Telephone securities, but my ideas in regard to the value of the Montreal Terminal changed somewhat in that time. That is the impression I have.

Q.—You are giving that just as your impression. A.—I have a vague memory that something of that kind occurred, but it is very vague in my mind. I am pretty sure, however, that that is the explanation.

Q.—Then can you explain to me why not only what you call the reversing transaction in respect of these investments, but certain other transactions which appear in your cash book, do not appear in this account? For instance, if you will go back to the cash book and look at page 1018, and see if you find some writings up and down there which are not in this account at all? You might look under West Chicago and Hudson River. You might look under Michigan Telephone and Chicago and Milwaukee Common. A.—Yes, I find an entry by which we write off \$15,000 of the value of our west Chicago Street Railway Stock, and off-set it by a readjustment, by putting in the common stock of the Hudson River Water Power Company for an equal amount. This Hudson River Water Power Common was one of our bonus stocks which had become valuable in the meantime.

Q.—What else do you find on that page? A.—The Michigan Telephone is already explained. I do not see anything else.

Q.—Turn to page 1019 now. Do you see something there between Chicago and Milwaukee and Michigan Telephone, \$15,000. A.—I find that we wrote down the value of the Michigan Telephone company's securities by \$15,000, and off-set it by an equal amount as the value of Chicago and

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Milwaukee Electric Company's stock owned by us. This Chicago and Milwaukee stock being exactly the same way, one of our bonus stocks that we thought had attained sufficient value to be taken credit for.

Q.—Those do not appear at all in this account? A.—No, apparently not.

Q.—Give me the dates of these transactions? A.—December 31st.

Q.—All on the 31st December, 1903? A.—Yes.

Q.—Immediately before making your Government return. The dates are all the 31st December except the one shown in this account? A.—Yes.

Q.—That is the original writing up and down in respect of the Montreal Terminal and the Michigan Telephone. Now ought these other entries to have appeared in this account? A.—I think they should.

Q.—Then can you tell me why all this adjusting was done on the 31st December? A.—Because at the close of the year we always go through and straighten out anything that requires straightening. That is the natural balancing time of the year.

Q.—Not looking towards the making of the return to the Government. A.—No, the natural balancing time when we have to make up all our accounts for our shareholders. It is the natural time when everything is straightened out.

Q.—Do you know of any other matters that have been left out of this account? A.—No, I don't know. There may be. I didn't know this had been left out.

Q.—Does the result of these transactions affect the ledger value of the securities you are carrying in respect of which this writing is done? A.—It does not effect, not to the extent of even one cent, the total; but it does affect the individual items.

Q.—It affects the ledger value of the individual items? A.—Yes.

Q.—And it affects the ledger value of the items as you have to return them? A.—Yes.

Q.—You show a ledger value of \$15,000 less than the thing cost you in your return to the government? A.—Yes.

Q.—Although your ledger value is supposed to be what it has cost you? A.—No, I don't admit that at all. Ledger value and cost value are not necessarily the same thing at all.

Q.—Do you say that? Because if you do you say that for the first time in this whole inquiry, as an insurance

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man? A.—I am very sorry, but I have very positive views that ledger value and cost value are two absolutely different things. They may or may not be the same thing.

Q.—How do you arrive at ledger value if not by finding out what a thing has cost? A.—Take real estate. If we have a certain amount of foreclosed properties that have cost so much and we choose to write that off—take the Bank of Montreal, we know what its buildings cost—a very large amount—we all know that those buildings are only included for \$600,000; they return that as the ledger value of their real estate, and it is correct, it is the ledger value and yet not the cost value. The two things are not necessarily the same at all.

Q.—If a thing has been written off by way of depreciation, of course that will be shown? A.—But the Bank of Montreal real estate has not been written off by way of depreciation.

Q.—We will not differ about the Bank of Montreal. If you write off a certain sum off a piece of real estate for depreciation, that of course finds its way into the Government returns? A.—Not necessarily.

Q.—It does if you simply do that and no more; if you do not appropriate profits from some other source to cover it. Mr. Tilley just shows me the Government form. "Amount of appreciation in ledger value of assets written up, with details." "Amount written off ledger value of assets not included in 5, with details." That is what the Government required you to do? A.—That requirement of the Government is a very recent one. It did not exist a few years ago. I am not sure just when it came in, but it is very recent.

Q.—It existed in 1903? A.—I don't know. If it did that was about the first time. At that time I doubt very much our knowledge of such a requirement. It came in without our attention being drawn to it and it must be about that time, from memory, that it first appeared, and I myself only knew of its existence a year or two ago. It is a recent requirement and the last two years we have given it very carefully.

Q.—You do not, of course, say that that requirement did not exist in 1903 and you do not say that it is not plainly stated here "with details?" A.—I know that it is required now. Whether it was then or not I do not remember, but at any rate it is a very modern requirement

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and since our attention has been drawn to it it is one that has been rigidly lived up to.

Q.—I will come back to that in a moment. I am going to look at your returns for 1903. Meantime what else is there in this account for 1903 which is not actually money made or lost on the sale of securities? A.—I see an item of \$18,336 of interest on foreclosed properties, evidently being the interest that we had been unable to collect on foreclosed properties.

MR. LANGMUIR: No loss of principal? A.—No; the principle we went on, I may explain to your Honors, is this: if we make a certain amount of profit, that when we are going to return the profit that we make, we have got to deduct all our losses; when we take the profit it has got to be net, and we have never drawn a sharp distinction between the profit on bonds and profit on real estate. We say they are all assets of the company and furthermore that before we can make a profit—profit means over and above not only principal but interest, and if we lose interest on one security that we ought to make that good before we talk about making profit on the whole, and we therefore consider that we are perfectly right and justified in considering that we made good any loss of interest before we talk of making profit, which is really over and above interest. This item, I may explain furthermore, is important because of the tendency of some of the companies, especially—I don't want to mention names—but one that is out in the West.

MR. SHEPLEY: Never mind. Certain tendencies of certain companies? A.—That have high rates of interest, to publish tables showing how their rate of interest compares with other companies and that they are earning more than other companies and are therefore better companies to insure in. If we make enough profits on securities to make good any losses on interest, and the company gets the money, the interest, it really earns that, and as a matter of comparison with these other companies we think it fair that it should be so stated.

Q.—That you should put forward a statement, as you did in this case, to the Government, saying that we have received interest on certain securities, which as a matter of fact you never did receive at all, because you lost that interest altogether? A.

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—I do not agree with that at all, if you will excuse me for saying so.

Q.—Did you receive this interest on these foreclosed properties? A.—We received an amount which off-set that and made it as good as before to the company.

Q.—But did you receive any interest whatever in respect of these foreclosed properties? A.—We received enough on our assets as a whole so that we made that good. That is all we have ever claimed.

Q.—But that is not what I am asking you? A.—Our account speaks for itself.

Q.—I would like you to answer that question specifically, if you will be so good. Did you receive any interest whatever in respect of those foreclosed securities? A.—We did not.

Q.—And in respect of which you have this item of interest. A.—Not from that source, we did not. From the source of profit on investment we did.

Q.—You did not receive any specific sum of \$18,366 from your profit on investments; it does not represent any specific sum, it represents something you have taken out of these profits? A.—Precisely. But we got enough to make good that amount and we claim we were justified in doing that.

Q.—Did you return to the Government that you had received interest upon these foreclosed properties to that amount? A.—Merely in the total. We did not say anything about these details at all.

Q.—Did you arrive at your total by including this? A.—Yes, which merely meant—

Q.—Which merely meant—let me put the question—when the Government came to examine your interest account in detail, that the Government were intended to believe that you had received this interest of mortgage securities. A.—Absolutely no.

Q.—How could it be otherwise? A.—It merely meant that what we claimed here—we have never hidden these things from the Government and they could see the thing clearly—it merely meant that we had received enough—the Government always goes over these items and I have no recollection of their making any complaint.

Q.—Whether the Government found it out is another question. A.—But we have never attempted to deceive them or to hide these things. These accounts are open for them to see. I may say Mr. Blackadar always goes

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through especially the final entries at the close of these things and it was just as easy for Mr. Blackadar to find them as for Mr. Edwards and he found them, I have no doubt.

Q.—You justify that on the ground, then, that other companies make a feature of their receiving a good rate of interest upon their investments? A.—No, I don't justify it on that ground.

Q.—I thought you said that you were doing that to make a good showing in comparison with other companies? A.—Oh no.

Q.—Which earned a high rate and were putting that forward? A.—I say it is important that we should make clear that we did not actually receive this money, but made it good from other sources. But I did not say that that would justify it if it was not right in itself.

Q.—That was your object, to make a good showing with other companies, in the last analysis that is what you wanted to do, is it not? A.—We wanted to make a correct showing; to prevent our real earnings being misrepresented.

Q.—You wanted to make a showing which would indicate that your profits on the sale of investments were less than they were and that your receipts on interest account were greater than they were, isn't that so? A.—No.

Q.—Is not that the plain effect of the entries? A.—No, what I was going to say is this, that we did not care at all whether it reduced the amount of profits on securities, but we did care that the rate of interest which the company was supposed to earn should not be unduly low. We attach importance to the one point if not to the other.

Q.—And therefore—I do not want to use the word in a bad sense—a fictitious earning by way of interest found its way into your accounts? A.—No, it was not fictitious.

Q.—It was fictitious as being an earning by way of interest, because it was not an earning by way of interest? A.—It meant that we made enough to make that earning good.

Q.—Out of another legitimate source of income? A.—Yes.

Q.—Not at all concerned with the same securities but concerned with other investments and securities? A.—Yes, but our interest and profits are on our securities as a whole and there is no division made in our returns. Our securities are taken as a whole and our interest and profits are taken as a whole.

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Q.—Is this the cash book entry of that; 26th December, 1903, 3 per cent. loss interest on \$611,202.58, ledger value foreclosed properties 31st December, 1903, \$18,366.08. A.—Yes.

MR. LANGMUIR: If you had not made a profit on the sale of debentures could you have made that interest good? A.—No.

MR. KENT: And that is a strictly journal entry, is it not Mr. Macaulay? A.—I think so.

Q.—That is, it should not have been there? A.—I am quite willing to acknowledge that you have given me enough points to consider the desirability of our adopting a journal, and I think we will give it our very best consideration. It is quite likely that if Mr. Kent were coming to our books in a year he would find a journal.

Q.—Whenever there are any shortcomings in the transactions it is much quicker to acknowledge it at once. You may perceive that Mr. Shepley is going to get to the bottom, if he wishes, so we gain time by acknowledging at once if there is an entry that should not be there.

MR. SHEPLEY: I do not think Mr. Macaulay is at all offending in the matter of candour, but he explains and argues a good deal.

MR. LANGMUIR: Justifying a wrong principle. A.—Perhaps I might explain to Mr. Kent that this question of our having a journal was brought up by our own auditors a year or two ago, and they argued that we ought to have it, and I said, Well, there would be so very few entries, what is the use of our having a little book like that? They said we ought to have it, and I said, this has done well enough since the company was founded, what is the good of it? But seeing that Mr. Kent thinks we ought to have it I think we will.

JUDGE MACTAVISH:—Your argument prevailed with the auditors? A.—Yes, that is it, exactly, but when Mr. Kent's is added to the auditors, I do not think it will.

Mr. SHEPLEY:—Let us put the transaction in the simplest form, because I want to appeal to you and get out your true view of the thing if I can. You have certain investments in stocks and bonds, that is a class by itself. You have made investments in mortgages and have been compelled to foreclose, so that the property is in the company's hands and is not an interest bearing asset at all. Isn't that so? A.—Yes.

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Q.—You have made, we will say, \$20,000 profit to your company by turning over certain stocks and bonds out of the one class of investments. You have not received any interest whatever in respect of the foreclosed properties. You go to your shareholders and to the Government and you say. We have only received \$2,000 profit in turning over the stocks and bonds and we have received \$18,000 interest upon these foreclosed mortgage securities. Now, is not that the essence of the thing in plain English? A.—No, excuse me for saying so.

Q.—Why not? A.—Because there is no such distinction made between the two classes of securities.

Q.—I am making it, and you made it first by investing in the two classes of securities. A.—But our returns as to interest and as to profit not subdivided. They apply to our assets as a whole.

Q.—Do not say that Mr. Macaulay. Here is the Blue Book. You know that this item in your returns: "Income during the year. Amount received from interest \$622,058." You know that includes this \$18,000? A.—Yes. I am afraid you have misunderstood me. What I say is this, that when we return an amount as interest, it means interest upon all securities, mortgages, bonds, everything.

Q.—Wait a moment, I was afraid you might, perhaps, say that. "Profit on sale of bonds \$41,000." That ought to be \$18,000 more, ought it not? A.—No, it is not.

Q.—It would have been if you had not made these changes, one would have been \$18,000 less and the other \$18,000 more. A.—It is arguable that we should have said profit on investments instead of bonds, but that is the only difference. Our interest is on our securities as a whole. Our profit is our net profit after providing for all losses on our securities as a whole, and the Government and our own returns make no special division.

Q.—Were you liable for that interest to yourselves and bound to pay it? A.—It was a loss we made and it was due to us by others and we could not collect it.

Q.—Here are two specific figures; is it true that one of them is \$18,000, more than the reality of the thing imports, and the other \$18,000 less. A.—Depends entirely on whether you consider that the word profit means net profit or not. We hold that profit means net profit. If you hold that

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profit means gross profit then Mr. Shepley is right. If it means net profit I am right.

Q.—You are disregarding that one is profit on sale of bonds, and the other is interest. A.—Profit on sale of bonds is an expression used by ourselves; not by the Government.

Q.—What difference does that make? You did receive \$18,000 more as profit on sale of bonds. A.—But that would be the gross profit and what we return is the net profit.

Q.—What you were asked to do was to give "amounts received for interest or dividends on stock, etc. Amount received for rent. All other income with details." A.—That is quite right.

Q.—This is the form for last year. A.—Yes, I would like, however, as Mr. Shepley has kindly put this in my hands, to draw attention to the exact phraseology we have used this year. "Net profit on sale of securities." That is the expression we used that year and that is the expression we should have used the year before and the amount we gave is absolutely and exactly correct.

Q.—Probably because your transactions in 1905 of this kind are much more numerous than they were in 1903. A.—Or it may have been that our attention was called to it.

Q.—You began to adopt a more accurate nomenclature for your account. A.—Yes, the effect is the same though.

Q.—What do you mean by net? A.—After deducting all losses and all charges.

Q.—After deducting all losses and charges and all amounts taken out of this account to make good losses in other investments? A.—That is right.

Q.—Do you call that net? Does that disclose the true net condition of this account? A.—Well, at the moment I would think so, but if you have any suggestion to make?

Q.—My suggestion is that the condition of that account should depend upon the items in that account itself and ought not to be affected by losses in other investments which are classed separately in the Government returns. A.—But investments include mortgages just as much as bonds, and there is no distinction.

Q.—Let me have that form again, please, "Amount received for interest or dividends on stock." That is. No 6. A.—Etcetera.

Q.—"Or dividends on stock etc." 7. "Amount received for rents." 8. All

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other income with details." A.—Yes, and under that we put "net profit on sale of securities." And securities include mortgages. I am very sorry to have an argument like this but I just want to make my own good faith clear.

Q.—I was saying a while ago that you were rather arguing than yielding to the plain facts, which are all we care about. A.—In explanation I would merely say that I prize that people should realize that I acted in good faith. We may have differences of opinion and I do not care anything about that, but I want it clearly understood that I acted in good faith and had what I considered to be good arguments.

Q.—The form in 1903 is precisely the same as in 1905. We happen to have it here. Take the form you were furnished to make your return on in 1903. We will see how your method lent itself to information under that form. Under the heading "Income during the year" there are the same three items I have just referred to. "6. Amount received for interest or dividends on stock, etc. 7. Amount received for rents. 8. All other income with details." Those are the same headings for income that we have in the other? A.—Yes.

Q.—And you filled in the third of those, "all other income with details," "profits on sale of securities," \$41,000 odd as we read from the Blue Book? A.—Yes, I wish right here to draw attention to the fact that there is a difference between the phraseology in the returns as we made them and in the returns as made by the Government. I mentioned that it was arguable that we should have used the word investments or securities instead of bonds. We did use the word securities in the returns we made.

Q.—In what respect does the Government return differ from yours? A.—Ours is securities, and this says bonds and bonds does not include mortgages and securities does.

Q.—What do you suppose this interest question was for? "Amount received for interest." "Interest upon mortgages or from any source? A.—Any source.

Q.—Therefore if you have received interest upon these foreclosed properties that would be the place for it? A.—Yes.

Q.—And there is where you return the sum you had taken from the profit on the sale of your bonds? A.—Yes.

Q.—It was in fact profit on the sale of bonds, that you had diverted—I don't say wrongly yet at all? A.—That we had diverted, provided you admit that it was not done wrongly.

Q.—I am not saying anything about that at present; I am saying that there is where it came from, that sum of \$18,000. A.—Yes.

Q.—And if you had not taken it, your profits here, to use your own language, on the sale of securities, would have been \$18,000 more. A.—Exactly.

Q.—Then there is another thing here that I call your attention to. In 1903, as now, a synopsis of ledger accounts is called for. "Amount of net ledger assets 31st December last year. Amount of cash income. Amount of appreciation in ledger value of assets or items written up with details." And then "Amount written off ledger assets not included in 5, with details." So that there is a place there for writing up, for returning your writings up and down. A.—I can only say that this return, this requirement in the Government form, is a very recent one. I doubt very much whether I myself knew of its existence at that time. The returns were not prepared by me and I doubt very much if I even knew about it. Under that heading we have \$27,000 which is made up of items that are mentioned here, but I admit at once that these returns for 1903 should have contained these items. I admit that immediately. Why it did not, I don't know. The only explanation I can give is that, so far as I am concerned, I doubt if I knew of the existence of that requirement in the Government returns at that time.

Q.—At all events there is an answer attempted to it, "amount of appreciation in ledger value of assets or items written up," and then "written off" in the other item. A.—Here is the explanation. There is no writing up or down at all. It is an explanation exactly of what they were. These returns are always prepared by our bookkeeping department of course.

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Q.—They are made under oath? A.—Yes, to the best of my knowledge and belief.

Q.—You intend them to be accurate? A.—Certainly. If they are not accurate it is not our wish, but the fact that they were not in 1903, I admit at once that they should have been and I am sorry that they were not and I can only explain that a new requirement being put in we did not realize all that it meant and did not do it. That is all that I can say.

Q.—Then what else do you find that does not represent an actual sale in that year, 1903? A.—There is an item of \$1,000 for travelling expenses, telegrams, etc., connected with investments.

Q.—We have passed over several small items of expense. Let us consider generally the question of putting expense items in that account. What business have they there? A.—If they are items that would not be incurred at all except in connection with such sales or with the making of such profits, they are a proper deduction. If they are not, they are not.

Q.—You would not think it proper to write off as against that account or pay out of that account any general expenses incurred in carrying on your insurance business? A.—Nothing more than extra expenses that would be incurred as a consequence of those things. Nothing else.

Q.—Of the securities themselves? A.—Yes.

Q.—The cost of obtaining the securities, the cost of realizing them and so on, you would take that out and arrive at the net profit in that way? A.—And the cost of going out and supervising them or anything of that kind, anything extra.

Q.—Do you understand that in connection with your returns to the Government you are supposed to return all your expenditure as substantiated expenditure? A.—Most of it. Anything except items that could be properly charged up as connected with the profits we have made.

Q.—Is that so with respect to your interest account. What about expenditures there? A.—Interest account is a special thing.

Q.—Is interest any more special than the result of any other class of investment? If one is special is not the other? If you ought not to omit to show your expenditure in connection with your management of mort-

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gage securities, ought you to omit to show your expenditure in the management of bonds and stocks? A.—We have never tried to do so.

Q.—Never tried to do what? A.—To omit them in connection with bonds and stocks.

Q.—You do not show these expenditures that are taken off the profits on your Sales of Investments, do you? A.—No.

Q.—They do not reveal themselves in the Government returns? A.—That means that we had, in that year at least \$1,000 of telegrams and minor expenses of different kinds that we would not have had but for these things. That is all it means.

Q.—Is there a proper place in the Government Return to put that as expenses? A.—It is quite debatable, it could be put in either way, a matter of opinion.

Q.—“All other expenses” is the place where that should properly be shown? A.—It could be. It is a matter of opinion just where it should go.

Q.—But if you set it off against an equivalent amount of profit made on the sale of debentures, and you do not do that—let us have that clearly—in connection with your mortgage investments? A.—No.

Q.—Can you suggest any reason why you should do it in one case and not in the other? A.—Because in the one case, mortgage expenses and so on, there are no expenses except ordinary routine expenses. In the others there are very unusual and extraordinary expenses directly connected with the profits.

MR. LANGMUIR: You pay a commission on real estate loans, don't you? A.—No, never have in the history of the company.

MR. SHEPLEY: Then you have given me that expenditure \$1,000. That is a lump sum, apparently? A.—Yes.

Q.—And your return of expenditure under the head of expenditure is \$1,000 less than it would have been if that had not been done? A.—Yes.

Q.—What else is there in that year that does not represent a real loss? A.—We wrote off \$10,000 to the credit of our real estate. That is we used that amount to strengthen the company's position and wrote down our real estate to that amount.

Q.—You wrote up your real estate, A.—Yes.

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Q.—You wrote up your real estate, did you not? A.—No, we took credit for \$10,000 less in our real estate account, less on that account.

Q.—And made it good with this \$10,000? A.—Yes. We acted upon the general principle, as I have already said, that if we are to give profits they should be net profits after deducting all losses. Here we had our real estate account; we thought that would be all the better for being strengthened by being written down a bit, so we said we will use \$10,000 of this amount that we have made on profits to write down our real estate to that extent.

Q.—And still keep it at the same amount? A.—No sir, it reduced it by that amount.

Q.—I don't understand you, but I suppose that is my fault. Did you write off \$10,000 off your real estate? A.—Yes.

Q.—And did you write off \$10,000 off this estate? A.—Yes.

Q.—And did you write off \$20,000 altogether? A.—No, we used \$10,000 of our profits made in this account to reduce our real estate by this amount.

Q.—Did you reduce it? First you raised it by this amount? A.—No.

Q.—This is an asset and you reduced this? A.—That is an income.

Q.—An asset, and you reduced it by \$10,000. Your real estate is an asset and you reduced that, you say, by \$10,000? A.—This is not an asset, it is an income and we used \$10,000 of that income to write down our real estate.

Q.—Perhaps you put that in the cash book too. If so, let us see the entries? A.—I suppose we did.

MR. SHEPLEY: I understand that it is convenient to some of those concerned that we should adjourn a little earlier to-day. I ask Mr. Macaulay during the adjournment, to fortify himself with all the papers, the original agreements, and correspondence relating to the Illinois Traction Company and its subsidiary companies and also with regard to the Shawinigan Power Company, so that we may have those before us during the afternoon.

(At 12.45 adjourned to 2 p.m.)

AFTERNOON SITTING.

THOMAS B. MACAULAY, Examination continued by Mr. Shepley.

Q.—What item were you at when we adjourned? A.—The \$10,000.

Q.—We were at that account of profit and loss on sale of investments. I had made that an exhibit and we were in the middle of examining upon it when the court adjourned. Here is the document. What were we at? A.—The \$10,000 profit and loss account.

Q.—And I think you were telling me that you had taken out of the profits realized upon the sale of investments a sum of ten thousand dollars with which to reinforce or strengthen the real estate accounts? A.—Yes.

Q.—You are looking now for an entry in that respect? A.—This is the entry.

Q.—This is in your profit and loss on real estate? A.—It is the real estate book.

Q.—You make a credit of ten thousand dollars by part profit from sale of security? A.—Yes.

Q.—That reduces the ledger value of the asset? A.—Yes.

Q.—It appears that you have realized ten thousand dollars which goes against what the real estate has cost you? A.—Yes, that is to say, our way of keeping our real estate account, is that we have an account for every separate property that we own, and then we have what we have called a real estate profit and loss account which is a general account with a considerable credit that we deduct from the whole, and we put this amount to the credit of that real estate profit and loss account, thus reducing the whole of our real estate account.

Q.—That makes it appear that your real estate has stood you \$10,000 less than it really did; that is right, is it not? A.—It means we have written that down. We have written down real estate accounts a good many times.

Q.—But the net result of this entry is to make it appear when you balance the profit and loss account, and the real estate account that you have expended \$10,000 less than you really have in respect of that account alone? A.—I would not put it like that. I just put it that we held the real estate in our accounts at \$10,000, less than otherwise would be the case, but not in any way at all as implying that we have done anything improper in doing so.

Q.—I just want to find what you did do, and what the effect of it was upon your bookkeeper and upon the account, without making any reflection.

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tion at all about it in any degree. Then it also has the result of enabling you to return, just as in the case of the other items, less profit made on the sale of your bonds and stocks than you really did make? A.—Yes, for which we are sorry, which we much regret, for we would rather show a handsome profit, but we thought it was desirable to provide for losses before we think of profits.

Q.—Does that find its way into the Government return too in the shape of a decreased ledger asset to your real estate and a decreased income from profit and loss on the sale of investments? A.—Yes.

Q.—Then is there any other item in this in that year which is not cash? A.—\$10,000 written off of the Denver and South Western bonds.

Q.—You still retain those bonds, is that right? A.—Yes.

Q.—But you wrote down their book value \$10,000? A.—Yes.

Q.—Though there was no real transaction in the bonds at all? A.—No.

Q.—Then is there anything else in that account? A.—Not so far as I could see.

Q.—Then \$30,000 Detroit Telephone Bonds,—is that a real transaction? A.—Oh, I did not notice that.

Q.—You will find out about that? A.—Yes, I cannot speak positively about that. It was either late in nineteen hundred and three or very early in 1904, that the Detroit Telephone Company was absorbed and replaced by the Michigan State Telephone Company, and the securities were written down, and we knew that we would have a serious loss, because we knew the basis on which the new securities were to take the place of the old securities. Just exactly when that took place I cannot tell without looking up the books, but it was certainly in 1903, or very early in 1904, so that I think that that was really a case of an ascertained loss, and I may say while I am talking about that that the same facts apply exactly to the Michigan Telephone securities. They were arranged in the same deal, and although I have been saying we have written them down in reality, by that time we knew what the loss was to be, and we knew we would get new securities, and sometime we had to write down a loss, whether we sold them or not, and in 1903 was as good a time as any. It had to come, because the securities of the Detroit Telephone Company and the Michigan Telephone Company were replaced by the securities of the

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Michigan State Telephone Company, but we got the securities in 1904.

Q.—At all events, that did not represent an alteration in the ownership of the bonds at all? A.—It represented the getting of new bonds instead of the old bonds—bonds of the new company on a different basis.

Q.—You do not know whether that took place until the following year, unless that took place at the same time— A.—It must have been just about that time, if not absolutely at the same time.

Q.—Unless it did that would not represent a real transfer of the bond, and a loss made on their disposition, but it would be more like the People's of Halifax, where there was really a realization in getting new securities. A.—In its character it was exactly similar to the People's, and that change took place either late in 1903, or very early in 1904, in both those cases.

Q.—Is there anything else in that year that is in the record of a disposition of your securities? A.—I do not think so, nothing that I see.

Q.—Then your balance arrived at in this way for that year was \$41,223.06. but for the items that we have been speaking about, it would have been \$93,000, or thereabouts more. A.—How do you make that figure Mr. Shepley?

Q.—I do not pretend to be infallible. I take thirty and add to that twenty, and add to that eighteen, and I add that ten thousand, and another ten thousand,—A.—I would like to point out that the twenty five is on both sides, and that cancelled it. You cannot count the twenty five because it is already provided for.

Q.—Yes that is right. A.—And the thirty I think was a proper item beyond all question.

Q.—I was not criticising the item. I take back the twenty-five. Then thirty and eighteen, and ten and ten, whether the items are proper or not— A.—That would come to sixty nine thousand dollars, of which according to my judgment thirty is beyond question.

Q.—Are you intending to concede—I do not really think you are—that there is any question about the other? A.—You have questioned it. I do not think even you can question the thirty. I do not question anything.

Q.—You have taken that profit arrived at in that way, \$41,223, and you have distributed it among these branches, again excluding the shareholders? A.—Yes.

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Q.—Will you take the next year, nineteen hundred and four, and go through that in a similar way. It extends over into the next page. If you will tick any items with your pencil as you go over them we will find them more readily? A.—In the figures for 1904 I notice only cash entries on both sides, except the following—with the exception that I am not certain till I look up more fully about an item of \$19,959, in the receipts, the last item in the receipts.

Q.—That is on the 31st December, under the heading "Illinois Central Traction, per V 859"? A.—I do not know what that is until I look it up, On the other side the entries appear to be all strictly cash entries with the exception of another ten thousand dollars to the credit of real estate profit and loss account, in exactly the same way as the ten thousand dollars of the previous year, and \$20,000, interest upon what we call the Appleyard securities, securities which had got into trouble in Ohio, and two entries comprising a total of \$17,539, which were agents balances as far as I remember, written off, debts due by agents which were not collected.

Q.—Then let us take those in their order of occurrence in account, rather than in their order upon that answer you have made. The \$4,750 appearing as a loss in respect of Michigan Central Railroad,—that was an actual loss on sale? A.—We had bonds of the Michigan Central Railroad guaranteed by the New York Central, and we held them for a while and then had to sell them at a loss.

Q.—Guaranteed by the New York Central? A.—Yes. Our experience with nearly all of these known as high class securities has been exceedingly bad, and our experience in that respect corresponds with the experience of all other Insurance companies. This is an illustration. You cannot get a higher bond than that, the Michigan Central guaranteed by the New York Central, and notwithstanding that we made a heavy loss on it, and if we had put all our investments into that class of securities, the Sun Life Insurance Company to-day would be in a very bad way.

Q.—I know you wanted to say that, but it had nothing to do with what we are talking about. Then you sold the Michigan State Telephone bonds at a loss? A.—Yes.

Q.—A loss of \$1,055? A.—Yes.

Q.—In addition to what you had

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written off the other two classes of bonds which they replaced? A.—Yes. That is that we did not realize even what they were supposed to give us in the reorganization.

Q.—I see an item in this of law costs, Montreal Railway Bill. \$1,000, what is that? A.—That was an item of law costs in connection with the Montreal Terminal Railway.

Q.—Were you opposing or supporting a bill of theirs or what was that? A.—The Montreal Terminal Railway was opposing a bill brought in by the Montreal Street Railway, and the stockholders—of which we happened to hold a large bonus—paid a certain proportion.

Q.—For the purpose of defeating the bill of the Street Railway company? A.—Yes, which was interfering with the other—

Q.—That was in the nature of an expense to protect your securities? A.—Yes.

Q.—Central Union was an actual loss? A.—Yes. That is the Central Union Telephone Company.

Q.—You made a further loss in Central Union Telephone Company bonds of \$3,000? A.—Yes.

Q.—That was an actual sale? A.—Yes.

Q.—And another loss—you apparently sold in blocks? A.—Yes. We could re-invest this money to much better advantage, and it paid us to pocket the loss and re-invest it on better terms.

Q.—Then I see there was another large block of Michigan State Telephone bonds \$23,807. You lost there? A.—Yes.

Q.—Were those bonds in the State of Michigan? A.—No, of the Michigan State Telephone company.

Q.—That was the telephone company incorporated for the purpose of absorbing the franchise of the two companies whose securities you had held? A.—Yes.

Q.—That telephone investment of yours was not a very satisfactory one then? A.—Not that particular thing, no.

Q.—Then we come to the entry, real estate, profit and loss, that is precisely like the one of the year before? A.—Absolutely.

Q.—We need not go over that in detail at all? A.—No.

Q.—Then interest on Appleyard securities. Now, give us a little about that—that is \$20,000? A.—We had the securities of a number of compan-

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ies, street railway companies in the State of Ohio, that were part of the system known popularly as the Appleyard System.

Q.—To what extent were you holders of these securities, to what amount? A.—We had altogether several hundred thousand dollars.

Q.—That is vague, can you not tell me more nearly? A.—Four hundred thousand dollars or five hundred thousand dollars.

Q.—\$400,000 or \$500,000 of these securities you held? A.—Yes, the properties in themselves were excellent and admirable, admirably located, but they were horribly mismanaged by Mr. Appleyard who controlled them, with the result that they went into the receivers hands just about this time, and as we saw there would be trouble with them, we wrote down our securities very freely in regard to them, and among other things wrote off \$20,000 of the interest due on those securities.

Q.—When you say the interest due on those securities, what do you mean? Have you lent money on those securities to Appleyard? A.—No—we had at one time, but we had no loans outstanding at that time. We had previously, but not at that time. The securities that were due to us, were—

Q.—Interest bearing? A.—Interest bearing, not preferred stock.

Q.—All interest bearing? A.—All interest bearing.

Q.—And you received no interest? A.—We had received interest, but we ceased to receive it.

Q.—Do you remember how much interest was due you? I suppose it was more than this \$20,000? A.—Well, I should think so, but I would not like to say positively.

Q.—Then not receiving that interest out of the securities which upon the contract ought to have been paid, you took it out of your general profit on the turn-over of your other securities? A.—Exactly. I would like to point out that these particular securities were not like those we were talking about before. They are actually in the same group.

Q.—Do you concede that that transaction is open to some criticism, and claim that it has the same advantages as the transaction in respect of the interest of the year before? A.—No, I think that is not open to the same criticism.

Q.—Do you claim it has the same advantages? Let us get rid of that side? Do you claim the same ad-

vantages for that transaction as you did for the interest transaction of the year before? A.—I do not understand what you mean by advantages.

Q.—You were saying it was a desirable thing to do? You were explaining as nobody could explain as well as you the reason why it was proper and regular and prudent to do it. I suppose that everything that you urged as to that would be applicable to this? A.—All I have to say is that here was interest on securities, bonds if you like, that we had failed to get, and that when we were reporting the total amount of profit that we had made, we certainly felt it was right and proper to deduct the loss on the interest on the securities, included in the same group, before we took any profit, and we thought it was a proper thing to do.

Q.—You deny that the criticism that the securities were not of the same class would apply here? A.—Exactly.

Q.—Otherwise the same argument pro and con would apply? A.—Yes, exactly.

Q.—Then next is Sundry agencies, and there are a couple of items. That was money due you by agents? A.—Money due us by agents as far as I remember which was uncollectable and which we wrote off.

Q.—It was money advanced to the agents by way of carrying your business? A.—I think not, I think it was chiefly bad debts.

Q.—Money they had collected and not paid over? A.—Precisely.

Q.—Were there some of the other sort included? A.—There may have been some. Without going into the matter, I could not say. I feel quite sure a large proportion was bad debts.

Q.—Will you concede that it would have been sound bookkeeping to have charged that to expenses? A.—Yes.

Q.—That would have been sound bookkeeping? A.—I may say in that connection that we were influenced in making that entry by a fact which came to our knowledge that it was the custom of American companies to do this. We happened to find that some large American companies had done this identical thing, and that it was apparently conceded as a proper thing in the United States, and we said if it is proper in the United States it is proper for us.

Q.—Did you not make up your own mind about it? A.—I grant you

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at once if I had the thing to do over again I would not do it.

Q.—You are not enamoured of that method of bookkeeping? A.—No, at the same time, we found other companies in the States were doing it.

Q.—You explained why you did it? A.—Yes.

Q.—You followed an example which you have found now not to be a good example? A.—I suppose there is a good deal of truth in that.

Q.—Of course the result of that was, that your expenses— A.—Excuse me before we go any further, I would limit that, however, to any amounts that might have been advanced by the company to the agents. When it comes to actual amounts the company has written off where the agent has collected premiums and never remitted. That is a loss and should not go to expense. Nothing will make me believe that should go to expense.

Q.—But it would be a very material thing for the insurance department to know that your agents did owe you money which they could not pay, which they had collected? A.—I would draw a very sharp distinction between whether it was money advanced to the agent for the purpose of carrying on his business or not. If it was money the agent had collected and failed to account for, I should say that was a loss, and should not go to expense account.

Q.—I would not like you to get an erroneous impression. I am emphasizing the desirability from the standpoint of Government inspection that the items that are put before the Government truly represent what the real facts are? A.—From that standpoint I would say that for years we have taken no credit at all for agents' balances in our accounts.

Q.—That is very much to your credit, because that is not a uniform thing in insurance companies? A.—For many years we have taken no credit for that.

Q.—You would concede, as an insurance man, at once that if there is to be any report or inspection, the return to the Government should develop precisely what the facts are in the case of each particular item, should they not? A.—Yes.

Q.—Of course adopting this method made it apparent—I do not say it made it real, but it made it appear that agents did not owe you anything

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when they did? A.—I do not think it had any bearing on that point at all because the Government inspector has never asked us whether the agents owe us any money or not.

Q.—Why should he, when he finds you do not return any balances due from agents? A.—I do not think the Government ever consider that is a thing they should look into at all. I do not think this question has any bearing on that point. I want to be perfectly frank, and where our course has been subject to criticism I want to admit it. I admit at once that to the extent that any of these items include advances made to agents—although other companies do it—and it has crept into the business—it is open to criticism and should not be done, but to the extent that it is money absolutely due by agents and defalcations, that is a different thing and should not go to expenses, and has no bearing upon this matter. There is no question of the value of it as an asset, because we do not make any claims for such an asset.

MR. KENT: Q.—But if you put your company in a worse light than it really should occupy before the Government, don't you think it is just as wrong as if you concealed something in the way of liability? If the company wants to know the exact position it is very nearly as bad to make your company appear poorer than it is, as to make it appear stronger than it is? A.—I am sorry to differ from you, Mr. Kent. In regard to this particular feature, it is always looked upon as a good feature in a company to take no credit for this. It is a matter of pride with a stronger company to ignore any agents' balances. You will find here that the companies in regard to the agents' balances put in "none, none, none." It is a matter of pride to leave that out, and it is not considered as understating the strength of the company.

Q.—Are you speaking of the American or Canadian companies? If an agent is solvent, if he is able to repay his advances, that is a debt to the company, and should enter into the report just the same as any premium— A.—Theoretically that is so, but your opinion is not upheld by the insurance commissioners of the United States, for instance. The

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United States insurance commissioners have ruled that the companies shall not be allowed to take credit for any of these things.

MR. SHEPLEY:—Q.—That is, because in nearly all those cases, these balances are illusory as assets, and moneys that cannot be recovered. That is right, is it not?

A.—That is right about a large proportion, but even if they are good, they are not allowed, and in leaving these out we are only conforming to what is considered the superior ruling made compulsory in the United States.

MR. KENT:—Q.—You think you should follow them? A.—Our own department considers we are following a conservative and proper course, and I am perfectly sure that in that respect we meet with their approval.

Q.—Because they think the agents' balances are assets and should be put in? A.—If we told them they were not, they would not believe us.

MR. SHEPLEY:—Q.—You have an agency ledger? A.—Yes.

Q.—Is it here? A.—Yes.

Q.—I would like to look at the side of the agency ledger in respect to these balances at the time? I want you to look at it, to jog your memory for the next question I am going to ask you?

A.—Out of 21 companies reporting in 1903, which I happened to have open before me, the first items agents balances or bills receivable, eight,—and they I think include the strongest companies, report none, showing that—

Q.—Showing that they consider—
A.—That it is considered a wise and conservative proceeding to follow.

Q.—You are not aware whether any of them have produced that happy condition of affairs by carrying money out of the profits they have made on other securities to the credit of that account? A.—I do not know anything about their private books.

Q.—Now then, if you will just tell me what was the condition of that account on the first of January, 1904,—I believe it does not go any further back than that? A.—What is the account?

Q.—I want to see the debit and credit balances in the agency ledger? A.—I am told it is not here. We have sent for the other ledger.

Q.—Did you as a matter of fact produce some of these debts of agents by making them advances at the end of the year in respect of their claims for

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rebates, and so no? A. We may have made advances, but not for rebates.

Q.—Advances to agents who have said they have had a hard year, and there has been a great deal of competition, and they have had to give large rebates, and you ought to make them some allowance? A.—No sir.

Q.—Nothing of that kind? A.—Nothing of that kind.

Q.—Under what circumstances do you make advances? A.—If an agent is beginning, and a new field for example, or is a new man, and he says, "It will take me some time before I can get enough business to draw commissions to live. I want an advance against the commissions that I will be earning later on."

Q.—That is the sort of advances you make? A.—Yes.

Q.—And those are the only circumstances in which you make advances? A.—Yes.

Q.—Now have you further information about these items. We will have to return to the agents balances again? A.—While Mr. Shepley is getting ready I might add a word, which has been whispered in my ear by our accountant; that Mr. Blackader, the assistant Superintendent of Insurance, in inspecting our books, objected to our having any agents balances showing at all. He asked us to rule those out, so that in doing that we were acting according to instructions from the insurance department, our own insurance department taking the same ground as the American insurance department.

Q.—That is not what I am asking about? A.—But I wanted to make that explanation.

Q.—On the credit side of the account appears on the 31st of December, Illinois Central Traction Company, \$30,150. On the debit side appears "Reverse, F. 282, Illinois Traction \$31,050." Explain those two items first. A.—Personally I know nothing about these things except what is told me.

Q.—Give me the information you have obtained by enquiring from the proper officers? A.—This was a profit actually made in cash upon the sale of these bonds.

Q.—Which was? The \$30,150? A.—Yes, and it was originally intended to let it go through as profit. However, it seems that Mr. Blackader of the Insurance department had been objecting at that time or about that time to our having any agents balances, and it

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was decided to write off all the agents' balances that the company had; therefore this entry was just reversed,—

Q.—And in reversing it—A.—In reversing it an error was made, so that instead of reversing it as \$30,150, it was reversed as \$31,050, just reversing the figures, which made an error of \$900 in the account. Then in sizing up the total of our agents' balances they decided, the book-keeping department, that of our total agents balances \$11,090.53 were bad, uncollectable, and on the other hand that there was an item of \$17,539.33 as the total which they considered perfectly good, absolutely collectable and good, which they did not wish to write off as uncollectable, but they treated the two items by deducting the \$11,090 of debts from the \$31,050, and the balance that was left was \$19,959.17, which was the balance of actual cash after providing for the bad debts, and they wrote off the good, the agents' debts considered good, they wrote them off in accordance with the wishes of the Insurance department by putting in this entry of \$17,539.33 on the other side.

Q.—Let us just examine that. Leave out of question the trifling error in reversing the entries and treat it as a matter of principle. You first made a cash profit on turning over these securities of \$30,150, and that found its way into the account in the regular course? A.—Yes.

Q.—Then by reason of what had passed between you and the superintendent of insurance you decided to reverse that entry? A.—Yes.

Q.—That is to keep that in suspense, as a fund out of which you could deal with the agents' balances? A.—Exactly.

Q.—Then you analysed your agents balances and said that \$17,539, of those were good, and how much was bad? A.—\$11,090.83.

Q.—That is, you had \$28,500 odd of agents' balances altogether? A.—Yes.

Q.—You provide for the bad debts of agents by deducting \$11,090 from the \$31,050, and treating the balance \$19,959.17, as being a sum realized out of the sale of securities. Then you wrote off in accordance with the superintendent's instructions, and not taking it out of any profits, or did you take it out of profits? A.—By charging it on the other side, we practically took it out of profits.

Q.—The other \$17,539? A.—Yes.

Q.—The result of that seems to have been that you have not only taken the

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good but the bad debts out of the profits on the sale of the securities? A.—Yes.

Q.—What did you do with the good debts when you collected them? A.—We treated this amount as a floating credit. We did not wipe them out but treated them as a floating credit.—

Q.—Supposing the agents would come forward and pay the \$17,000, what would you do with the money? A.—If the time ever arose that we had less than that, we would put it probably as a credit balance in agents' balances.

Q.—What would you do with it in this account, because you have charged this account with it? A.—It ought to be reversed I think.

Q.—That time has not come yet? A.—No. I do not think so. There is always a certain amount of debts.

Q.—These five entries are all in connection with that trouble about agents' balances, or are concerned there? They are all affected by it? A.—That is right.

Q.—Then what is this other, \$10,300. Is that actual cash? A.—That is actual cash.

Q.—Then we will come back to that when the book comes. You arrived in that way at a final balance of \$22,411 which you distributed among the various branches, but this time you gave some to shareholders, \$7,000 odd, how was that, how did you come to do that, because that is the thing you firmly resolved you would never do any more? Can you tell me about that? A.—I am getting the voucher for that.

Q.—Had you discovered some new unfairness to the poor shareholders? A.—This is the first of these two items which we discussed yesterday of the five per cent. upon the profit made upon investment. The amount is made up as follows. Five per cent. upon the amount for four years—here are the items. It is the first of those items where we have the shareholders' credit for five per cent. of the profits earned by the company on its investment. There were two items you remember.

Q.—This is the first? A.—This is the first.

Q.—You went over the account from 1901 down? That account you have before you. What was the balance carried over from 1901? A.—\$41,049.

Q.—And for 1902? A.—\$42,675.

Q.—1903? A.—\$41,223.06.

Q.—And for 1904? A.—\$22,411.90.

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Q.—And you calculated five per cent. upon each of these balances. Why did you stop at 1901, why did you not go further back? A.—In the first place there was very few profits before that, and I rather think the shareholders got profits on investments direct before, but the amounts were trifling before that, not worth bothering about.

Q.—You went back to 1901, and calculated this, and that constitutes this item here. What is the rest of this computation? A.—That is the accrued interest.

Q.—Where does the rest go? A.—Interest account.

Q.—That appears in the shareholders account? A.—Yes.

Q.—Let me just state what this shows and I will put it in as an exhibit: This shows that five per cent. was calculated upon the yearly balances on the accounts receiving the profit and loss on the sale of investments, that the principal of that was capitalized—when I say it was capitalized, that was turned into principal—it was then added to give five per cent. That made \$7,367.46, and that was carried to the shareholders' account. Then that was compounded at six per cent. to the 31st December, 1904, the compound interest amounting to \$779.42, and that was included in the amount for interest carried to the credit for the shareholders' accounts of that year? A.—Yes.

Q.—That is the way it is?

MR. SHEPLEY: I put that in as an explanation of that (exhibit 594).

Q.—Now your securities moved with considerable liveliness during 1904? A.—Yes.

Q.—You were buying and selling constantly? A.—Yes.

Q.—And you were selling and buying the same stock from—I was going to say from week to week? A.—No sir, I do not think that is quite correct.

Q.—How long would you hold the stock? A.—As a rule we would hold the security a year or two before we would turn it over.

Q.—And at this particular year 1905, when the securities were moving constantly were you not buying and selling the same securities? A.—To a certain extent.

Q.—According to the fluctuations in the market? A.—No, we have strictly avoided market stocks. We have done hardly anything in the way of buying securities that fluctuate.

Q.—I think you will find a good deal of movement, but we won't trouble

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with that just now. That is part of a larger subject. Perhaps you will be good enough to say how many items other than cash, losses or gains, on the sale of investments, you find in the account for that year? (Witness examines statement).

Q.—What do you find? A.—I have not the information about this.

Q.—For the present we exclude an item of June 15th, 1905, \$1,398, as to which you have not the information?

A.—Yes. With that possible exception of being a reverse entry, which I do not for the moment understand. I see nothing whatever in all the profits entered in that account for that entire year, that is not strictly cash.

Q.—Representing money actually made? A.—Money actually made by realization of securities.

Q.—That is on the credit side? A.—Yes.

Q.—What about the other side? A.—On the other side I find that there are several amounts which we have written off as losses on other securities. For example we wrote off \$27,305.20 off the bonds of the New Hampshire Traction Company. I find one item of one thousand dollars charged in exactly the same way as previously for travelling expenses, postage, and other special expenses, connected with the realization of these particular securities. A second item of \$50,000 written off the New Hampshire Traction Company securities, fifteen thousand written off the Dayton, Lebanon and Cincinnati, \$30,000 written off the West Chicago guaranteed stock, and two items totalling \$42,500 of interest, upon the old Cornwall street railway investment, \$3,952 of interest lost upon the Denver and South Western investment, and other sundry items of interest totalling \$21,357.39, all of these amounts being deducted. In this connection I would like to state that these facts are fully set forth in the blue book. That is not true of the previous year, but it is absolutely true of this year, that they are fully set forth in the blue book.

Q.—Fully set forth as a result of Mr. Blackadar's examination after you made your return? A.—Mr. Blackadar thought we ought to put them in and we put them in.

Q.—Mr. Blackadar made a special examination into the subject and communicated with you upon the point after you had made your return? A.—He came down and talked it over

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and we agreed that that should be done.

Q.—Then you say the first item written off is the New Hampshire Traction bond. There is \$27,305 on the first batch in those securities, and \$50,000 on the second batch? A.—Yes.

Q.—You did not part with the ownership of these bonds? A.—No.

Q.—You wrote those two sums off A.—Yes.

Q.—How was that? A.—The company went through a reorganization and we got fresh securities. We considered we had really made a loss there.

Q.—When you say fresh securities, you mean additional securities? A.—We got securities of a new company.

Q.—How about the old securities? A.—They became void.

Q.—You gave them up? A.—Yes.

Q.—And it was an exchange of securities in the course of which you dropped \$87,000? A.—Yes, we took the conservative course of writing down and providing for that loss.

Q.—Dayton, Lebanon and Cincinnati were written down \$15,000? A.—Yes.

Q.—What is that? A.—That is bonds of one of the Appleyard companies.

Q.—Did you return those, or was there a reorganization going on? A.—There was a reorganization going on, but we retained the bonds and wrote this off.

Q.—West Chicago Street Railway—did that come back? A.—This is guaranteed stock of the West Chicago Street Railway, and they are having a fight about their franchise, and in the meantime its value has deteriorated, owing to the dispute.

Q.—And \$30,000 written off that? A.—Yes.

Q.—Then the Cornwall concern, \$42,500; what about that? A.—That is an old investment. We considered that lost money and we wrote it off.

Q.—Was that interest? A.—Yes.

Q.—It says stock and bonds? A.—Interest on the stock and bonds.

Q.—What about the stock and bonds themselves? A.—We held them in our contingent account.

Q.—You wrote off nothing but interest, then. Was there more than interest written off these bonds? A.—We wrote off in this year, or the previous year—I have not the figure before me—the whole of both principal and interest of the Cornwall Street

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Railway investment into our contingent account.

Q.—That would not appear here at all? A.—Well, I—

Q.—We did not find it, at all events? A.—I thought it was there, but it does not appear there.

Q.—You had as a matter of fact carried your principal and interest the year before into contingent account? A.—We had carried our securities.

Q.—Principal and interest? A.—Well, we did not transfer the interest; we transferred them as one dollar. The Cornwall Street Railway as a total investment stands in our books as one dollar for the sake of keeping track of it.

Q.—You did not deal with the accrued interest on the Cornwall investment either through this account or that account, and this year you dealt with it in this account? A.—Yes. I would like to say it does not mean that the Cornwall investment is bad, because the Cornwall Street Railway is doing very nicely now. Its revenue last year, including the Electric Light, which is now amalgamated with it, was \$43,615 gross. After paying operating expenses, a net profit of \$10,048, and after deducting interest charges there remained a balance of net profits of \$8,447, and deducting the five per cent. interest on the Stormont Electric Light Company stock, there still remained a surplus of \$6,892, on the investment on the year's earnings, so that that does not mean it is a bad investment. There was \$6,892 earned last year.

Q.—How much of that did you get? A.—All of it. We own the company. We have put none of it there as profit because we hold the stock and we are building up the company.

Q.—You are in control of the company? A.—We foreclosed the company and got control of it and own it all except the qualification shares of the directors. The company has a deposit in the bank of seven thousand dollars odd, so that it does not mean when we write off these things, that they are altogether bad.

Q.—You will not get the whole of your money back, unless you are thinking of the dollar you have in the contingent account. Let me ask you whether the principal has always been treated as you had treated the principal of this investment the year before, whether you look upon it as

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sound, to make it appear you have been receiving interest by taking it out of profits on other investment? A.—We had dropped that much out of our account in the previous year. Our interest account had been depleted to that extent, and we were placing it in this amount to take the place of what has been dropped out.

Q.—You were repaying yourself, so to speak, out of the profits you had made on other investments? A.—I should like to emphasize that the policy-holders and public have full knowledge of this thing from the blue book. It is stated there in full detail.

Q.—How much of this Cornwall investment was bonus to you originally?

A.—Do you mean in the way of bonus stock?

Q.—Yes. A.—Not one cent.

Q.—None of it? A.—None of it whatever. Our losses have come almost exclusively upon security we did not get a cent of bonus stock on.

Q.—Of course you would not lose the bonus stock if you did not get anything? A.—Well, but we had bonds only.

Q.—No stock? A.—No, I do not think so.

Q.—Are you sure of that? A.—We got stock afterwards. When the company was reorganized and we surrendered our original bonds we got preferred stock for our interest in it. But in the original purchase we got our bonds and not one solitary cent of anything extra.

Q.—Then the interest was not paid upon your bond? A.—We foreclosed the company and reorganized it.

Q.—And carried it into the contingent account at a dollar? A.—Yes.

Q.—And when it was reorganized, you got all the stock? A.—Except the qualification shares.

Q.—Including some common stock? A.—Yes.

Q.—Mr. Edwards shows me this statement. On September 23rd, 1902, you got Cornwall Electric Street Railway bonds in exchange for preferred and common stock apparently, or rather you gave Cornwall Electric Street Railway bonds for preferred and common stock? A.—Yes.

Q.—And then you gave Cornwall Street Railway Light and Power Company preferred and common—A.—This is purchased and this is sold; so that in the sold company we

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surrendered one hundred thousand dollars of bonds and took in \$100,000 preferred stock, and \$100,000 of common. That was the exchange.

Q.—So that you did get bonus stock on the reorganization? A.—You can call it bonus stock. We got that for our investment.

Q.—You got security representing the face value of \$200,000 for an investment which was originally \$100,000? A.—Yes.

Q.—No interest had, of course, ever been paid you at the time you wrote off this interest in 1905? A.—Some had been paid us, but not for several years.

Q.—Let us go on to the sundries, sundries interest. Where can you get me an account of that? A.—We will get that later.

Q.—Then you can get me a statement also of these expenses and see how that thousand dollars is made up? A.—It is an arbitrary sum.

Q.—How did you approximate it? A.—Just slumped it at one thousand dollars as an allowance for expenses.

Q.—Whose expenses were they? A.—Our expenses in connection with investment. While we made large profits, we have gone out of our way to make them. Our directors have taken a trip to the Western States and going around perhaps twice a year, and we have made a great many expenses that we would not have had but for all this.

Q.—Did you expend one thousand dollars? A.—We expended a very great deal more than a thousand dollars in connection with these investments.

Q.—What investments are you speaking of? A.—The Illinois Traction more than anything else, but many of them.

Q.—That was that \$2,500? A.—That was a commission on the sale of this stock.

Q.—You were selling out your Illinois Traction and paid commission to a broker? A.—Yes.

Q.—Montreal broker? A.—Yes.

Q.—Is that in Montreal. A.—Yes, this was on the Montreal stock exchange.

Q.—Does a broker usually intervene in your relations? It is the only instance I have seen? A.—Almost invariably. The company cannot sell except through a broker.

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Q.—I do not see it in any of these items? A.—It is always deducted from the items.

Q.—What had you been doing in 1906 with respect to matters of the class we have been discussing today, writing down, writing off, paying interest out of profits made on the sale of other securities? A.—We have made no profits since the first of January over and above interest to the end of September \$422,000, more.

Q.—What have you done with it? A.—Cash on actual sales, and then owing to the conservative course we have taken in years gone by in writing down doubtful securities, we do not think we will need to use any of that for these things, but it is net.

Q.—Your shareholders must be looking forward with delight to your next statement? A.—95 per cent goes to our policy holders and I think they have reason to feel delighted at the prospect.

MR. LANGMUIR:—Q.—What was the condition in 1905? A.—In 1905 the gross was \$669,000, but after writing off certain things it was written off to \$437,922, and since the first of January we have received \$422,000, more in actual hard cash in the way of profit. We do not feel a bit blue about the matter.

Q.—Now to refer you to the report of Mr. Blackader in respect to your company on the 31st December 1904—and from that I should infer that the account that we have been examining does not by any means exhaust the writing down and the writing up that you did during that year. That is, it has not all gone to that account. A.—Apparently not.

Q.—Probably that will be so with regard to the other years as well, so that we have not by analysing that account, we have not got exhaustively your appreciation or depreciation? A.—I think you have pretty well I was under the impression you had got about everything.

Q.—I will refer you to what Mr. Blackader reported,—A.—I remember that one particular bunch that Mr. Blackader spoke about, I know there was a bunch we wrote down.

Q.—First he spoke of bonds; this is exhibit 18, filed before the commission on the 20th of March last, under the head "Bonds": Denver and South Western Railway \$35,627; Dayton and Springfield Electric Railway \$5,000; Columbus, London and Springfield Railway \$80,000." Under the head of

"Stocks," "Central Railway Company \$60,000, odd, Columbus, London and Springfield Railway preferred \$145,881; Cornwall Street Railway \$100,000; Dayton, Springfield and Urbana Railway Company preferred \$125,000, or a total of \$558,000, odd. No such sum as that is shown in the account of 1904? A.—No.

Q.—Is that accurate? Was that written off? A.—I think so. But I would like to emphasize as I have already done, that these do not mean losses, just as I have told you about the Cornwall Railway.

Q.—You mean they do not necessarily means losses? A.—No.

Q.—They mean you were apprehensive? A.—They mean we were doubtful and we were in such a strong position that it was a conservative course for us to use these strong profits we were making, not to put them in over and above and extra, but to write off certain things we had any doubt about at all, to strengthen the company in that way, and about the Ohio properties you spoke of, we have already had an agreement closed, it is completed and shortly to be delivered. We are to get the securities, \$675,000, for those Ohio properties in guaranteed A-1 five per cent stock; so that on those which constitute the great bulk of all that we wrote off, we cannot lose more than a little trifle of interest in any case, so that our fears are groundless, and our investments are turning out good after all.

Q.—I do not think they were groundless at the time? A.—Turned out to be groundless.

Q.—They were not groundless when you had them? A.—They have not materialized.

Q.—You suggested an idea I may want to ask you about later, but we may as well have it here, so that we may be considering it. Your idea of strengthening the company by writing off everything you think is doubtful and carrying it either in contingent account or otherwise, is what, with respect to your policy holders? A.—We consider that if we can strengthen the company by making use of any unusual profits in the way I have spoken of by writing down other securities that may be at all doubtful, and making the company's position in that way remarkably strong, that we are acting in the best interests of the policy holders in several ways. In the first place

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it is to the interest of the policy holders that the company should be powerful beyond all question, and in the next place as long as we are able to get handsome profits for our policy holders, which we are certainly doing, the policy holders have no ground for complaint. As a matter of fact I think we have the best satisfied body of policy holders of any company in the country. The policy holders certainly do not feel that we—

Q.—Perhaps the policy holders would be better judges of that than you or I? A.—We hear continually through our agents and directly how our policy holders feel, and their continued expressions of satisfaction at the returns they are getting are unmistakable.

Q.—Very gratifying to the directorate I am sure. A.—Yes. As long as we do not trench upon their profits to the extent of giving them less than they would naturally and properly expect—

Q.—Less than they have been taught to expect? A.—Yes. We are strengthening the company and laying up a foundation by which in the future we will get more profit.

Q.—You will always be pursuing the policy of strengthening and you may accumulate an enormous sum of money which you will never divide, because you want to make your company stronger? A.—Concurrently with this policy of strengthening the company has proceeded the policy of adding to the profit. We have been giving larger distributions to our policy holders year after year on a higher basis. We have not merely got this great contingent fund—and I would say right here that the contingent account when it was spoken of at Ottawa as \$1,800,000, it is now, with these further stocks we have obtained, and the increased value of those stocks we have, it is now in excess of three million dollars. Not only have we this contingent fund, but concurrently with that, the things we had claimed in our assets, have been largely increased.

Q.—You are piling up a constantly growing fund which you are not dividing among your policyholders? A.—We are dividing it little by little every year.

Q.—But never overtaking the accumulation in the rest? It is always running further ahead? A.—I hope it will always.

Q.—Your policy is to keep piling up a surplus away in advance of what you divide? A.—Our policy is to increase our divisible surplus, and increase the profits we pay to our policy

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holders, but at the same time to always keep our contingent fund away ahead, so that it will be always a little stronger than it is claimed to be.

Q.—And have a great deal more money on hand to invest than it is prepared to divide? A.—Exactly.

MR. KENT: Would you be in favor of giving your policy holders a vote? A.—That opens up a very big question. Theoretically policy holders might be entitled to a vote because of their interest in the company, but in practice it is found that policy holders do not take any great interest as a rule in the company, and as a rule they are swayed by the agents, because an agent in any district can get the votes or the proxies of all the policy holders, or the great bulk of them in his district and control by policy holders therefore as a rule means control by agents, and not really by the policy holders, and that is not desirable.

Q.—You are afraid that some fine day an agent might aspire to the position of manager or secretary of the company, is that it? A.—There are two ways in which policy holders can vote, either with the proxy system or without it—

Q.—Are you in favor of a policy holder appearing at your annual meeting and voting to the same extent as a shareholder? Would you be in favor of that? Do you consider he should have the right to vote just the same as if he was a shareholder? A.—No, the shareholders' money is staked behind his, to guarantee his money, and the shareholder is liable for the extra amount over and above what he is paid in, and the other is not. If you let me finish I will point out some of the dangers in connection with policy holders voting. If they vote by proxy—

Q.—I am not speaking of voting by proxy in any event? I am speaking of appearing in person? A.—I will take that up in a minute. In voting by proxy it means the agents control the votes in the district, and the management that controls the agents, controls the votes of the whole company, and if you want to get a pocket-borough that is the easiest way to do it. About allowing him to vote in person, that system has the objection of disfranchising those that are not close at hand. Here is an illustration of what happened in a highly respectable old company in the United States. It had this system without proxies, and one agent near Philadelphia—whose

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headquarters were in Philadelphia, some years ago quietly organized—he saw the management was honest but sleeping, and he quietly organized a whole lot of his friends, policy holders in the town where he was not far off, and he hired a train, and when the annual meeting came along he got all his friends to go on the train, and they got right into the city and they turned the whole management out and put a new one in control. That is an illustration of the danger of letting policyholders vote in person.

Q.—But these policy holders might have a perfect and justifiable right to do just what they did. Where your policy holders contribute three or four millions a year in the shape of premiums, they may reasonably hold the opinion that they are the company and the company belongs to them, and they should have a voice in its direction. One of the very best companies that we have examined, the Mutual company, and the one that showed fewer shortcomings than any of the others—the fact that a company is a mutual company does not mean that it is dangerous, or that there is anything wrong in its management. A.—Oh not at all, I am certainly not pretending for a minute—

Q.—The manager of a company generally keeps on top, whether it is a stock company or an assessment company. He is practically there for life if he does his duty. A great many managers we have examined have stated that the policyholders in their opinion should vote, and they would not like to see them deprived. The object of my question is to see in which position you would place yourself? A.—I consider policyholders as a class do not want this privilege. I do not know any of our policyholders who have asked for it. They seem to be entirely satisfied. I know of no demand for it at all, and I know from positive experience of other companies that when the privilege is given them they do not avail themselves of it unless some agent gets them and brings them in, and they are simply there at the request of the agent.

Q.—When a man is deprived of something, he wants it, and when he can get it for the asking and taking, he does not take it? A.—Our policyholders have made no demand for it.

Q.—If there was a considerable body of your policyholders who wanted to vote, you might change your opinion? A.—If we thought they really wanted it, but it would require

a lot of convincing to convince me that there was not an agent behind it.

Q.—You would not believe a man if he wanted to vote unless he brought some proof of his bona fides? A.—I would think he was not representative of the class. I myself consider the ideal form of life insurance control is one of a stock company where the management have enough stock that they cannot be turned out easily, that they are not just open to be dogged by any speculator or any agent that comes along, a management that is too weak and has only one or two, or three, or four per cent. of the stock to control that company with, is open—there is a temptation to any speculative man with some little money to go in and try and buy that stock and try to get control. I look upon that as objectionable. On the other hand, personally I do not like the idea of a company as the Equitable used to be, where one man controls the whole thing and cannot be turned out if he does wrong. I think the ideal management is one where the management control enough stock that they cannot be easily turned out, and yet do not control enough stock to prevent them being turned out if they do wrong. I do not like to crack up our own company, but I think it is just about the ideal thing; that is the management with us control about 25 per cent. of the stock; that means that if any person started in to get control of the Sun Life he would find he had his work cut out. On the other hand if the management of the Sun Life do not do right, the directors, there is enough of other votes to turn them out quickly, unless they are able to at least command the confidence of a good share of the shareholders. So that we think we have got the ideal management.

Q.—Then you do not think your shareholders are getting any undue share of the profits of the company? A.—I do not. Perhaps before we drop this subject, the President has just whispered to me that perhaps I might mention that about two or three years ago three American gentlemen came to the Sun Life Company and were introduced by our Vice President. Perhaps I won't mention the names. He did not know what their object was at all, but they had come with letters of introduction and they wished to know whether it was possible to buy the control of the stock of the Sun Life

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Insurance Company? Of course we were very much astonished and said the stock was not for sale. I mention that as an illustration of how a company that has a weak management is open to attack on all hands and I repeat that I think the ideal arrangement is like what the Sun Life has got.

MR. SHEPLEY: I suppose you are open to buy stock whenever it is on the market? A.—Within moderate limits. My purse is not deep enough, I am sorry to say. The President draws my attention to the fact that the Macaulay clan used to hold a larger proportion than it does to-day so that we have not shown any undue aggressiveness in that respect.

MR. KENT: Have you an idea how many policy-holders you have altogether, roughly within a few thousands will do? A.—About 70,000 I am informed.

Q.—Then it would be perfectly impossible for any but a small proportion to vote in any other way than by proxy. Your investments bring you in, on an average, what percentage? A.—We have no difficulty whatever at the present time in getting all the investments, and more than we can handle, of the highest character, of the kind that you can advise a widow to put her last dollar into and then go and sleep soundly, to yield us over 6 per cent. and get some bonus stock in, too.

Q.—Then the dividend paid the shareholders so far as it is in excess of that rate may be thought by the policyholder who cannot express his opinion, to take a portion of what belongs to him; if your stock is say \$100,000 and your surplus a million and a half, out of the million and a half you could pay off all your shareholders just by drawing a cheque for it? A.—Easily.

Q.—Therefore, taking the view of the policyholder, he is paying a premium to share, as he thinks, not only in profits but in all the profits that the company makes, with the exception of such expenses and other payments as are justifiable from his point of view. He says the company is paying 15 per cent. to its shareholders; the investment of those shareholders is earning 5 or 6 per cent.; therefore the shareholders are getting 10 per cent. of my money, or of the profits that should come to

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me. I was wondering whether you could so far divest yourself of your character as a shareholder to look at it exclusively from the point of view of a policyholder. I do not want your answer at present, but I shall come back before your examination is concluded, with that question, because the Sun Life is one of the most important companies in this country and the opinion of its manager ought to, and does, bear considerably more weight than that of lots of witnesses that we have examined in our investigation. I asked the question of one important person in insurance matters and I got a satisfactory reply; it was not the reply I expected to get. Now, I may not get the reply from you that I expect to get, but any way I shall ask you one or two questions from the point of view, exclusively, of a policyholder, leaving out all the questions of shareholders as if there were none. I am sorry, Mr. Shepley, to have kept you so long.

MR. SHEPLEY: Not at all, Mr. Kent. What I was developing, just in outline for the moment, was this idea that you are increasing—I will call it your contingent fund for want of a better name. A.—That is what we call it.

Q.—You are developing that at as great speed as you can make with it, making it as large and as important a factor as you can make of it? A.—In other words, we are just making the very best out of our funds in every way and a large part of it goes to it.

Q.—You are making that fund grow as rapidly as you know how? A.—Yes, but not at the expense of other funds.

Q.—Wait a moment. It is growing more rapidly in proportion than the profits that you pay are growing, is it not? That, of course, is a matter that is demonstrable mathematically, and there can be no doubt about it and it is your policy and intention that it shall grow so. A.—We want always to have a very substantial fund there.

Q.—That is hardly meeting the question as I put it. A.—The fund is exclusively the growth of recent years.

Q.—Neither does that answer it quite. A.—And it is natural that it

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should grow more rapidly, therefore, than the profits on policyholders' money.

Q.—Is it your policy to make it grow more rapidly than the accretions to the profits paid to policyholders can overtake? A.—The question of the amount of the contingent fund will depend to a very large extent upon the nature of the securities in that fund. Our idea is that just as soon as one or other of these securities become interest bearing and get to have a market value, we propose to take them out of that and put them into our regular published fund, and the policyholders will get the full benefit from it then at once.

Q.—The full benefit of what? A.—Of every dollar we transfer in that way from the contingent to the general fund.

Q.—That does not yet deal with what I am asking you? A.—And the funds that we leave in the contingent fund are chiefly those that have a more or less unsettled value yet. They have a good value in its total but they have not got a market value yet or are of such a kind that we would like to see them put into our regular assets. For example the most valuable single item in that contingent fund is a large block of the common stock of the Illinois Traction Company. That is a company that is doing marvelously well. It has big earnings, expected to earn about nine per cent. on its common stock this year, but it will not pay any dividends. We do not think that we should put that into our regular published list of assets until it is a dividend paying stock with an established value. Meantime it is kept in the contingent fund. We can hardly, as the President tells me, divide the profits to policyholders until those profits are well ascertained by market value. But there is one thing that your Honors can rest perfectly certain about, and that is that it is our ambition not only to be a strong company but to be an exceedingly profitable company. We realize fully that if we are to be a big company and a strong company and do big business, and to be a popular company, we must give large profits to our policyholders, and there is no danger in the world that we will not give as large profits to our policyholders as will make them thoroughly satisfied and give them absolute justice. There is no danger in the world of that.

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Q.—Now, if you are not tired by that little journey—you are like the man who was going to jump over a fence and he ran so far to take off that when he got to the fence his strength was all gone. If you will pay attention to me for a moment, is it your policy to have the growth of your contingent fund exceed in proportion the growth of your profits divisible and divided among policyholders? That is the question I have asked you and you have answered several other things but you have not answered that? A.—We have never really had any policy. I have never had that question come before me or before the management in that identical form. We have always considered that we wanted to have a big, substantial contingent fund, and we wanted to see it growing as fast as it can reasonably be done, and we have always realized that whether it would grow fast or not depended not upon any policy of ours, but rather upon the kind of securities and how soon they would be ripe to transfer from the contingent account to the actual account. It depends more upon the nature of the securities than upon any policy that we could have.

Q.—That perhaps answers the question in a sort of way, but it suggests two other questions. If you have not a definite policy as a company, do you mean to say that you have never thought of that as a general manager or secretary in charge of the executive policy? Has that never occurred to you to reflect upon or have you thought about that in your odd moments? A.—I have always thought that the two things ought to march step by step. That we ought to be able to add a large amount to our contingent fund and at the same time to add a large amount to our declared and divisible surplus. The two things going step by step just exactly as they are doing this very year.

Q.—But you have told me that hitherto, since you adopted the contingent fund, its rate of growth has been greater than the rate of growth of your divided profits? A.—Yes.

Q.—Then they are not step by step, one is taking a little longer step than the other? A.—Well, with that qualification, yes.

Q.—That is what I want to get from you, whether either as a matter of policy or foresight looking forward on your own part, you have a view about that as to whether you

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think it is desirable that that condition of things should continue, or will there come a time when you will say, We have got enough contingent fund, let us divide everything else? A.—The time will certainly come when the contingent fund will be so much that we will say we will put everything we can into the other account.

Q.—That is too indefinite for any practical purpose? A.—I am afraid we cannot get down to anything more definite than that, because as I have said what we are going to do in connection with these things is a thing beyond our control and foresight.

Q.—It would not be if you have three million dollars of property upon which you can now realize three million? A.—That is an approximate valuation.

Q.—An approximate valuation, upon which you can realize that amount. It is not a vague thing to ask whether you have any intention of putting that upon the market and dividing it? A.—Not at present, it would not be wise.

Q.—I am not saying whether it would or not. You have said you gave us as definite an answer as you could, and I am trying to put it in a little more definite shape? A.—These securities will be worth a great deal more in the next few years.

Q.—And the policyholders whose money has bought them will some of them be in their graves and they won't get it? A.—Meantime they are getting—

Q.—As much as you choose to give them? A.—Yes, and getting magnificent profits and the man who is not satisfied with the profits we are producing is hard to please.

Q.—I do not know. If you and I were in partnership and I was managing the concern and you lived away, and taking the accounts from me, I said "We have made \$100,000 of profits and you can have \$5,000 and I am going to keep the rest," you perhaps would not be so unreasonable if you said you were not satisfied with that. I would not satisfy you if I said that any man who is not satisfied with \$5,000 on this business is an unreasonable man, that would not please or satisfy you. Don't you see what that all comes to? Your power as an executive—I don't mean you individually, but the shareholders' power through their directors—is practically absolute under your constitution? A.—It is absolute under our charter.

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Q.—Within the limits of what public opinion can compel? A.—Yes.

Q.—Public opinion, meaning the opinion of your policyholders as the result of what they see other companies doing. A.—Yes, and our desire to stand well with the policyholders and make the company profitable.

Q.—But within those limits you are absolute? A.—Yes.

Q.—Then don't you see that in an investigation of this sort it is of the essence of the thing that we should find out whether you have a policy in respect of that? A.—The time has not come for us to form a policy, because we have not yet got to the point where we have securities that we think are ready to put in.

Q.—You are moving in a certain trend? A.—Yes.

Q.—With a certain fixed idea as to your policy up to the present time, at all events? A.—Yes.

Q.—Now, cannot you look forward as a skilled insurance man, with a policy which as led him up to a certain point, and say what you contemplate in the future? A.—We contemplate being able to divert from the contingent fund into our regular fund every now and again a large block which will enable us to increase the profits our policyholders will receive, but how fast we can do that it is impossible for any human being at present to say.

Q.—And how fast you will make the one fund increase and the divisible fund increase by relation to each other, it is impossible for you to say? A.—Yes.

Q.—And you have no view with regard to that? A.—Merely that we ought to give larger profits to our policyholders almost every year than the previous year.

Q.—And that you ought by gradual steps still to increase your contingent fund every year from what it was before? A.—If we are able to do it, if we are only fortunate enough to keep on as we have been doing. That is another point. It does not follow that because we have been so fortunate in the past that we are going to be able to keep this up indefinitely. We have to look at that as a contingency.

Q.—Certainly not. But you hope to, you are not relaxing your efforts?

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A.—No, but I look forward to a considerable diminution in the openings for as profitable investments as we have been making, a few years hence.

Q.—Do you mind telling us how that will alter your policy? Will you divide what you cannot invest? A.—I mean that we may not be able to keep on making profits as rapidly in the future as we have in the past. There are things that make us believe that certain fields of investment are filling up and that the prospects of new openings in connection with them are not as likely as we have had in the past.

Q.—You mean in connection with traction propositions and things of that sort? A.—Yes.

Q.—The geography of the country is getting pretty well crossed hither and thither by that sort of thing? A.—Precisely.

Q.—And you are not speaking of regular avenues of investment by trustees, but such investments as you have been making? A.—Yes. What I would like to emphasize is that the kind of investments we have been making are of the highest class, and while not trust funds, yet investments that I would advise a widow to make.

Q.—Please leave the widow out. A.—I cannot put that more strongly. They are bonds that I would, without any hesitation, advise a widow to put her last dollar into and both she and I could have a sound mind.

Q.—You have told me that the very highest class of them are some upon which you have made the most loss? A.—Yes.

Q.—Then let us drop the widow; let us not talk about the widow's money in connection with schemes some of which of the highest class, as you yourself have said, turn out the most disastrous. A.—But the curious thing is that these high-class or gilt-edged bonds are just the ones that have felt most the gradual rise in interest and have deteriorated more than any others.

Q.—Don't you think that with regard to a great deal of them their condition depends upon the honesty and ability of their promoters? A.—British Consols have fallen 27 points in the last seven years, if I remember right, and there has been an average fall in these high grade bonds.

Q.—We are not talking about British Consols, we are talking about

promotion schemes, traction schemes, and things of that sort. Won't you go with me to this extent, that the value of these securities will depend almost entirely upon the honesty and capacity of the promoters themselves? A.—That is a very important feature.

Q.—It is almost everything, is it not? A.—Yes.

Q.—Capacity will put them in a good field with a good proposition and honesty will make them administer it honestly? A.—Yes.

Q.—Is there anything else that you can suggest that is more important or as important? A.—A third point is that to make a success of these things there must be financial standing, too.

Q.—He must be able to command finance? A.—Yes.

Q.—If you are banking trust funds upon the capacity and the honesty of a particular set of men, you are putting all those eggs in a precarious basket. A.—No, because we, according to my ideas, if you are going to have the best thing you have to take that basket into your own keeping.

Q.—And be the promoter yourself? A.—No, but make sure that you yourself can control the policy.

Q.—Control the policy of the promoters? A.—Yes.

Q.—Are these schemes—not using the word invidiously at all—in which your contingent fund is invested, schemes which you are controlling. A.—Some of them. Some of them not. Those that turned out best are ones that we had considerable voice in the control of. Not exactly control but had a large voice in the control of.

Q.—You used the word control yourself. You said you thought it was desirable you should control. A.—By that I mean control, in conjunction with others, in whom you have entire confidence yourself.

Q.—You would not go into it at all with people you had not confidence in? A.—Often people who go into things go into them with people they don't know anything about.

Q.—You would not go into a promotion scheme with a man you had not confidence in at all; you would stay out of that. Confidence is presupposed. I am supposing that always you had confidence in the men you were dealing with. If you had not you would not deal with them at all. A.—Yes.

Q.—Then, of the men you deal with, some are more and some are less able.

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some more and some less honest, and for that reason, as I understand you—change it, if you think proper—in that sort of scheme you prefer to keep control yourself? A.—To keep control not ourselves necessarily, but ourselves and others with whom we are closely associated and whom we know better than we know these promoters.

Q.—What class of people have you in mind when you say that, people you say you know better than you do the promoters, and have confidence in.

A.—For example take some of these things, we have made money out of, like the Mexican Light and Power and the Rio Janiero. When people like the Bank of Montreal go in and put in the bulk of the money, we say we are quite willing to associate with people like that; we know them and have confidence in them, although we do not know the promoters very much.

Q.—Supposing neither you nor the Bank of Montreal, because this is a purely hypothetical case, for the purpose of this evidence, because we are not dealing with the Bank of Montreal to-day at all. In case of a scheme in which you and the Bank of Montreal are jointly interested, supposing neither you nor the Bank have control, neither combined nor separately, then what? A.—There may be other people who are associated with it.

Q.—Then supposing they have not control; I want to get to the point where you do not have control, either by yourself or by someone else whose capacity and honesty is as undoubted as your own. A.—We would look askance at anything that was not controlled, from our past experience.

Q.—Then you have got back to the original idea of control by those who are financing as an essential when dealing with schemes that are being promoted. A.—It is one of the very most important points.

Q.—Essential I asked? A.—I won't go so far as to say essential, but I look upon it as a very important point. I know it is considered essential by many of the leading bankers in the United States for example.

Q.—And I understand you to say you would look askance at a proposition where there was not control. A. Yes. I would like to explain, the words "promotion schemes" have been used.

Q.—I am using that phrase as a short way of expressing these traction schemes. A.—I would like right there to put a little more clearly the nature of the securities we get. I am afraid of that expression.

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Q.—I do not want any false impression to be created, and it will not last very long if it is, because we are going to-morrow into most of your schemes. At least, I hope so. A.—I would like to make clear that for instance, take the bonds of companies like the subordinate companies of the Illinois Traction Company which you have mentioned. Those bonds are first mortgage bonds upon the extension and while the extensions are new they are guaranteed by the absolute guarantee, principal and interest, of the parent company, which has this year a revenue over and above all the interest of the bonds on the system, of about \$700,000. So that they are made absolute from the very start and we consider them amongst the finest gilt edged securities that can be got.

Q.—Did you secure that rosy condition of affairs without maintaining the control from the beginning until now? A.—Of the Illinois Traction Company we own 43 per cent., I think it is—I can tell you in a minute—so we do not actually control it.

Q.—Does anybody else control it, if you do not? A.—No one person, but neither do we control it, but we and some others control it.

Q.—Have you always held only that percentage? A.—In the start we had 50 per cent. I can give you the full particulars to-morrow.

Q.—Well, 43 per cent., if the rest of the stock is not held in one hand, is held in two or three or a dozen or thirty or one hundred hands, 43 per cent. goes pretty near to holding the control. A.—Yes.

Q.—Then I would think you might concede that you practically have control of that, so that is hardly an illustration of a case where you can dispense with control. A.—We have 47 per cent. We used to control more, but the preferred stock is now chiefly held by other people.

Q.—The parent company, I have as on the 29th December, 1905, your holding of the capital stock in this proportion: \$1,637,200 out of \$2,420,000, and in the common \$2,690,000 out of a total of \$4,318,000. That, of course, is a substantial majority. A.—Would you mind letting me see that?

Q.—By all means. The figures are the figures of our own accountant. A.—This is prior.

Q.—The 29th December, 1905. That was until the whole scheme had been elaborated and put upon a footing.

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A.—Yes, we have since sold a lot of the preferred stock.

Q.—But you have not sold it to one hand? A.—Oh no, there are approximately 719 shareholders in the Illinois Traction Company. Believed to be.

Q.—If there are 719 shareholders and you hold the proportion I speak of, of course you have control? A.—We can manage it, I have no doubt, we can control it with our friends.

Q.—Then, with respect to the schemes which you do not control—you were putting the Illinois Traction amongst those I understood? A.—No, I was considering that we did control it practically. We don't literally, but we do practically.

Q.—Then with respect to other things that you do not control, what have you in your mind as an illustration, so that we may just see the position there? A.—The Shawinigan Water and Power Company, but we have not got that now, we have sold that.

Q.—What was your holding there? A.—Very small.

Q.—And you did not hold that long? A.—Yes, we held that for quite a while. I would not like to dogmatize on that, however.

Q.—Who was in control there? A.—A group of people, consisting of Mr. Greenshields, Mr. Aldred, the Quebec Bank and a few like that.

Q.—How did that turn out? A.—All right, we made a handsome profit.

Q.—But you are not still holding? A.—No.

Q.—I am more concerned with what you are now holding in this contingent account. I think I will finish this memorandum of Mr. Blackadar's that we have strayed away from. I do not remember whether you led me away or whether I led you away. After pointing out that you had written down or taken out of the accounts \$558,933 worth of stocks, the memorandum of Mr. Blackadar goes on: "to cover this amount the following stocks were written up: Mexican Light and Power Company. \$40,000. Georgian Railway and Electric Company, \$45,000; Illinois Traction Company \$473,933.57. Making a total the same as the amount written off." (See Exhibit 18). A.—Yes, I would like to emphasize that of those three stocks that were written up very shortly afterwards we sold at prices very much larger than the figures there put upon them, so that the valuation we put upon them was more than justified.

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Q.—Were these bonus stocks that were written up? A.—They were all of them bonus stocks.

Q.—That is stocks you had had thrown in upon purchase of bonds? A.—I may say that we sold a number of these bonus stocks this last year, 1905. We had a suspicion that perhaps there might be a commission or something of the kind, and we thought if we talked about their value perhaps people would say, You think they are worth that, but we don't know anything about it, and so we sold them, thinking we would let them taste the cash. As a matter of fact we would have made more money by hanging on to several of these things. For instance Georgian Electric we sold at about 93 and could have got about 120 for it if we had kept it until now. At the same time we made about \$95,000 profit on that one thing.

Q.—Did you put it into divisible surplus when you sold it? A.—Yes.

Q.—I dare say your present policyholders would like to see you do that with anything that you were carrying? A.—Anything we sell goes immediately into divisible surplus.

Q.—(Reads from Exhibit 18 from the words "the Company held just before the close of the year" to "stocks held by the company.") A.—That extra amount was received in exchange for the stock which we held of the Decatur Railway and Light Company which was absorbed by the Illinois Traction Company.

Q.—(Reads from Exhibit 18, from the words "a further amount was purchased" to "sold at par.") Do you remember that transaction? A.—Yes, that is the transaction where it was supposed that a sale had been made to some of the directors. Part of that is correct but not for the whole amount. That came up at Ottawa.

Q.—I have not come to that yet. You purchased, near the close of the year, \$580,000 of Illinois Preferred Traction Stock? A.—On the 31st December, that is the identical amount. That is the entry.

Q.—In exchange for 200 St. Louis and Springfield Railway Company. (Reads to "153,000 Illinois Traction Company bonds.") How are you identifying that? A.—That was the part that was in reality being taken by some of the directors instead of by the company. That was corrected immediately.

Q.—That was the matter spoken of at Ottawa? A.—Yes.

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Q.—Let us have it upon the notes now so there may be no misunderstanding about it. I shall have to ask you further about that, but your account of it is that at the time of the purchase it was intended that certain of the directors should join in the purchase? A.—Yes.

Q.—And the whole purchase was made in the name of the company? A.—Yes, and as soon as the error was discovered, which was in a very few days, immediately the directors took up their share and reversed it to that extent. Not a sale at all, but just a taking up of the part they should have taken up at the start.

Q.—And at the original price? A.—A little better. The company made about \$700 out of them.

Q.—Subsequently the sale price was considerably in excess? A.—Very much in excess.

Q.—It had gone up to 72½ or something like that? A.—We valued it at that. What we did was, we valued it at 75, but we deducted the profits we would be supposed to make upon the sales that were not profitable, which brought it down to 72½.

Q.—Now, did you think of what I asked you this morning, to bring all the papers? A.—I brought some, but I could not get all. I have some right here that I can give you.

Q.—Let me have them overnight, and bring the rest in the morning.

(At 4.30 p.m. on Tuesday, 16th October, adjourned to 10.30 a.m. on Wednesday, 17th October.)

EIGHTY-EIGHTH DAY.

MORNING SESSION.

Montreal, October 17th, 1906.

SUN LIFE ASSURANCE (Contin'd).

THOMAS B. MACAULAY, examination continued by MR. SHEPLEY.

MR. SHEPLEY: Mr. Macaulay tells me that he desires to make an observation upon a subject that we were covering yesterday, and, of course, I can have no possible objection to his doing so.

WITNESS: Your Honours, I would like, before we drop this question of the principle which should be followed in writing down securities, to just make a remark or two. We have been

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criticized for writing down securities, real estate or other securities before losses have actually been realized, because we anticipated that losses might be realized upon certain of those securities, and it has been held that we have no right—at least so I have understood—

Q.—Do not mistake me. I am not venturing to offer criticism at all; I am trying to find out what the facts are? A.—The impression has, I think, gone abroad from the examination that our course is not approved, of including in our profit and loss account the writing off of any securities, where the loss has not yet been absolutely realized. Now in that connection I would like to observe that our course has been in absolute accord with the course of all the banks, of all the loan companies and all commercial corporations of any consequence anywhere. In fact according to our way of looking at the matter, any other course would be absolutely wrong, and when we are criticized for writing down things in anticipation of future losses, we say that, in our judgment at least, we are taking the only proper course. For example, what would be thought of a bank if it argued that because certain accounts that it had, or certain securities that it owned, had not yet actually realized the loss, and the loss was not yet absolutely ascertained, that it should not charge up against the profits it is making from year to year, the losses which it thought it might make? Why, any bank manager who would claim that he was justified in not writing off things of that kind when he knew that losses were likely to arise, simply on the ground that they had not yet arisen, would be considered to be issuing misleading reports, and he would be criticized, and rightly criticized. Or, on the other hand, any loan companies that had some mortgages which it feared were going to cause it a loss, or had some real estate which it thought might not in the end be actually worth the amount that it cost for it, and suppose the manager of that loan company were to say, "We have not yet sold these properties, we have not yet actually realized these losses, and therefore we are not justified in making any provisions against that loss which we think will come, simply because it is not yet realized"

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—the loan manager or bank manager who would issue statements on that basis would be considered to be deceiving the public, and be considered to be issuing false statements even. We have done nothing more than what is looked upon as the universal and the only correct practice by banks and loan companies, and commercial corporations everywhere. Then if the question comes, if it is admitted that securities should be written down in this way, how can they be written down? If we are going to write ten thousand dollars off real estate as we should, or if a bank wants to write ten thousand dollars off the cost of its real estate, as it might want to, how can it do that except by putting that charge to profit and loss account? It is not possible to do it in any other way, and we claim that we have done the only thing that was possible, and instead of being criticized we think we deserve credit for the conservative course we have taken, and I just wish to be understood, that, in our judgment, instead of the company being liable to be criticized, or the company having done wrong, according to our judgment, the standard that is being set up, and by which we are being judged, that standard being that no loss should be charged up against the profit and loss account, unless a loss has been actually ascertained in cash—that that standard is wrong. It is not our practice, but that standard is wrong. I am not speaking about the details of our account or anything. I am trying to look at it from the general principle, and on the general principle I hold that so far as that particular thing is concerned, the writing down of such securities as real estate, and charging such writings against profit and loss account, is not only defensible, but is the only correct and proper way, and I would be perfectly willing to leave that question to the judgment, for instance, of any manager of any chartered bank of Canada, and if he would not say that our course was right, I would be astonished. Thank you very much for this opportunity.

Q.—Nobody, I suppose, would doubt that when a security held by any financial institution has become depreciated in value, that it is proper to recognize that fact in the statement you are preparing, nobody

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would doubt that? A.—That is right, that is our position.

Q.—The question is whether or not you should do it in such a way as in the first place to disclose what you have made on other securities and what you are losing on these securities, setting one off against the other. That is a thing that might be criticized, though I am not criticizing it?

A.—I would like to explain, following that point out. In the first place it is admitted that we should properly charge any actually ascertained loss against actual ascertained profits. That has not been criticized or denied. Then if it is proper to charge actual ascertained losses, it cannot be denied, in my judgment, that losses we see coming in like manner should be charged against it. I do not myself see how any other course is possible, and as to publicity I quite agree with that, and I did not know myself that there was such a return as the synopsis of ledger accounts called for until my attention was drawn to it two years ago, and in the blue book it is stated there in detail that full publicity is given. I grant that publicity is desirable, but it is given there.

Q.—You look after the returns yourself, do you not? A.—I supervise them in a general way, but I leave the preparation of them to others.

Q.—You do not let a return go out without knowing everything that is in it, and being satisfied with it?

A.—I simply do not pretend to check all the details. It would be simply impossible to certify to it, because others in whom it is entrusted have gone over documents and tell me it is right. I check it as far as it is possible.

Q.—You go into it minutely, do you not? A.—Fairly so.

Q.—You would think it was proper you should? A.—Yes.

Q.—No doubt you do your duty in that respect and go through it so as to satisfy yourself you can put your oath to it? A.—Just the same as any other manager of any institution would trust to his subordinate.

Q.—I do not know what he would do. I am trying to find out what you have done in respect of matters you have been speaking about. I suppose all that is not done without instructions from you? A.—What matter?

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Q.—The writing up and writing down? A.—No, that is done under instructions. I assume entire responsibility for that.

Q.—You assume responsibility for that? A.—Absolutely.

Q.—And you would not I suppose disclaim responsibility as to anything that is done? A.—Not at all. I said if there was an oversight three years ago in filling that return, which was a new thing, that that was a matter which crept in without my knowledge, but as to the responsibility for writing up and writing down. I assume the responsibility and defend it, and I claim it is the only thing possible.

Q.—You have referred to bank managers. Do you suppose a bank manager when he was dealing with an account which had become bad or doubtful, would write on the face of the account and say "John Smith does not owe the Bank \$20,000, but he only owes the Bank \$5,000," because that is all he thought he could get? Would he write it off the face of the account or make provision for it, maintaining the account as it stood? A.—I cannot tell you about that, but I can point out that we have not reduced the amount due by any person in that way, but when it comes to real estate—

Q.—You have written it off the face of the account in the book? A.—We have written it off the amount at which real estate for example stands us. That does not mean that we reduce the amount, but I would claim that any bank or corporation that would let a piece of real estate that cost it \$100,000 for example, stay in its books at \$100,000, although really only worth \$50,000, simply because it had not yet sold it, and had not yet realized the loss, would be acting highly improperly.

MR. LANGMUIR:—Q.—I do not know why you assume that there has been undue criticism, I have not heard it from the Board anyway. But there is one thing I would like to ask you whether you consider correct; that is taking away from the profits of the sale of debentures in order to pay what is due on interest on mortgages which have not been paid. Assume that a new directorate came into this corporation, and it is wanting to find out what is the best class of securities to invest in, they would look at mortgages, and they would find in your books that you had lost no interest on mortgages, and they would say that

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that was a splendid investment, and they would perhaps go no further than that, but they would not find out, unless your books revealed the fact, that you had taken away from the profit on sale of securities, and credited it to interest, and returned it as if interest had been paid. Is that right? A.—That is a different matter from what I have been discussing. In the first place I would point out that our companies reveal it in the most absolute manner possible; so that it would be impossible for any person, new directors or any person, or even the superintendent of insurance who comes in—it would be impossible for him to mistake it, and it is returned in the Blue Book to the world at large, whether that is right or wrong—

Q.—As coming from the mortgagors or from the sale of debentures? A.—We returned that in the clearest possible manner.

MR. SHEPLEY:—Q.—You can take it from this document. That is not the return covering the precise thing you have been speaking about, A.—Here is how we have returned it. Amount of cash income as given in full in the regular item which includes the net balance of profit on sale of securities; "Third, extra income, amount received from profit on sale of securities; applied as below." And then amount received from profit on sale of securities applied as follows: In writing down ledger values of bonds; stocks \$95,000.00; Transfer to interest account to replace amounts dropped from time to time from that account; the amounts reported as profit on securities sold being the net, after providing for sums written off, and losses of interest, \$67,815.72. Now I claim it is not possible to make our showing more clear than that.

Q.—Is that taken from your return that you—A.—It is taken from the return stamped by the Insurance Department.

Q.—You remember of course that in 1903 when the item we were discussing \$18,336, was taken out of the profits on the sale of debentures and stocks, —you remember that in that year no similar return was made? A.—That is right. That was an oversight as I have explained, but I would like to explain that my remarks that I was making before, were on a different point. I grant, Mr. Langmuir, the point you have made is debatable. The other point of the propriety of

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writing down things I do not think is debatable at all, that any other course is wrong, and instead of our being criticised properly for putting in such a thing as ten thousand dollars written off the value of real estate, I claim the manager of any loan or trust company that would take any other course would be doing wrong, and I am sure no one would criticise it.

MR. LANGMUIR:—Q.—It is absolutely right in principle. It is only the method of doing it I am not criticising your method at all? A.—I understand Mr. Langmuir, but from my standpoint I cannot see any other way in which it is possible to do it.

Q.—Likely you are right? A.—It is right to do it, how else can it be done? I do not know of any other way in which it is possible to do it, except by writing it off through profit and loss account.

MR. SHEPLEY: Q.—I do not want to at all detract from what you have said to your discredit, but you see when you made your return on the 30th January you did not go into those details? A.—Yes. When I looked over the matter I found what they had done, and we sent on that supplementary statement which we have there, as soon as I found it had been omitted. We sent it on without any enquiry. It was entirely voluntary.

Q.—It was sent on the 28th February and reached the Department on the 1st of March? A.—Yes.

Q.—Perhaps a month later than your return? A.—The return was received the 2nd February. It was still in plenty of time, and it was included in the book.

Q.—Oh, no doubt? A.—I grant at once Mr. Shepley that these things ought to be made clear. Don't misunderstand me. We are absolutely agreed on that point.

Q.—This is what you said in your letter to the Department enclosing this statement which we have just referred to, "I enclose you herewith a statement of the additional stocks and other securities owned by this company as of the 31st December last. On looking through our ledger accounts I am inclined to think the synopsis of ledger account as furnished by us in our recent return, I think can be improved." (Read). A.—That is right. As soon as I found it had not been sent, I sent it on as part of the exhibit.

Q.—As soon as you found out what? A.—I was going through the return

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and found this had been left out, and immediately corrected it.

Q.—Now, there are two or three little matters I want to ask you about, and to complete some threads of what we were doing yesterday before going into a substantive matter. That you have prepared as explanatory of certain items in the shareholders account. That is where you have taken five per cent. of the profits on the sale of investment and put it to the credit of the shareholders? A.—Yes.

Q.—These are the two items of \$21,986 carried to the debit of profit and loss and to the credit of the shareholders account? A.—May I follow that point up,—

Q.—I will attach this and make it part of Exhibit 594. Then what is it you want to say? A.—In comment upon that might I just point out that if the shareholders had received their proportion of these profits according to the old principle, the amount which they would have received for the years 1901 —

Q.—You mean instead of giving six per cent.? A.—Yes, if they had received their share of the profits on investment, on the old basis of distribution, the amounts they would have received for the years 1901-2-3-4 and 5,—I have worked them out here—would come to \$6,127.99, which they did not get, and which of course would form part of that. Furthermore as the profits for that year will almost certainly be at least five hundred thousand, their proportion for this year would be another five thousand dollars in round amounts, working up to \$11,127, which is an amount which they did not get, have not got, but would have got if the old principle had been followed out, so that for practical purposes the six per cent. without any of the investment profits, or the actual rate of interest earned, and their share of the investment profit, would about balance each other.

Q.—As your investments became more active, and turned over, and larger profits were made, of course restoring the percentage of profits on investment, will enure to their benefit. It is very evident that in the next few years they will get more under the old system than under the new system they have got.

Q.—But you are now giving them five per cent. of the profits on the

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turn over of your investments? A.—We are merely allowing them to draw that on the earned investments as an advance, as I explained before.

Q.—Now, there is just another matter in connection with that shareholders account— A.—I would like to emphasize that it does not make the slightest difference to the policyholders about this. It does not affect their interest one solitary cent one way or the other. The shareholders get their five per cent. and that is all.

Q.—You remember telling me that in the year 1901, when you allowed or put into the shareholders account a credit of \$9,088.34, the heading being "Profit on sale of securities,"—I think you explained to me that that was a levelling up from the prevailing rate of interest of six per cent.? A.—That is right.

Q.—You remember that in your account for 1903, you gave the shareholders a further credit of fifteen thousand dollars odd? A.—Yes.

Q.—That was under the head of interest? A.—Yes.

Q.—It may be there was an error. That you furnished us with a computation of—that fifteen thousand dollars? A.—Yes.

Q.—That seems to include levelling up from 1897 to 1902 from the five and a half to the six per cent., or from whatever the percentage was to six per cent. You observe that, do you not? A.—Yes, I noticed that the other day.

Q.—That covers the same amount as the \$9,088? A.—No, because there was a little mistake made in the figures of the previous year, and they had nominally overlapped, but, in reality they about balance each other.

Q.—In 1901 you levelled up by allowing the shareholders \$9,088? A.—Have you the previous item?

Q.—In 1903 you levelled up for four years prior to 1901, for 1901-2 and 1903, so that you must have overlapped unless there is some mistake in the statement? A.—If you will give me the previous one I will explain it.

Q.—Which one? The \$9,088? A.—Yes.

Q.—That you have not given us, I do not seem to have that, I do not remember having seen it. A.—There were two mistakes made by the book-keeping department, and the one just balanced the other.

Q.—You observe what I am saying? A.—I observe your point, and I dis-

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covered it myself a little while ago, I found the department had made a mistake and curiously enough they made a double mistake and the one nearly balanced the other.

Q.—Let us have that, because mistakes that balance each other are not so satisfactory as those that do not balance at all? A.—That is right. The point you are raising was raised by myself.

MR. SHEPLEY: Q.—Is that paper among any of the papers given to us, Mr. Edwards?

MR. EDWARDS: No.

MR SHEPLEY: You have given me a statement here which I shall put in showing how the \$9,088 was arrived at in 1901? That apparently is a statement beginning with 1877, and coming down to 1900 inclusive? Do you criticize that as a fair statement of what the paper shows? A.—On looking over this I found that the book-keeping department of that time in preparing it had made a slip in the year 1897—that was the year in which we had increased our capital stock from \$62,500 to \$105,000, and they had figured the interest that was coming to the shareholders only upon the old capital, and not upon the new capital, and in that way they have made a mistake against the shareholders of \$1,835. Later on when there was a new book-keeper there, he did not know anything about this arrangement, about six per cent., and for a few years it slipped in and went on the old arrangement, and when he was told to correct this, and put it on the six per cent. basis, he did not notice this thing had been put through. He put it through going back as far as 1897, and the two overlapped. That was a mistake on his part due to his ignorance, but fortunately this other mistake made in the previous one—they just about balance each other.

Q.—That can be corrected? A.—Yes.

Q.—Will you have done for us? A.—Yes.

Q.—You will have a full statement made up covering both periods without any overlapping? A.—I thought you meant that I would see that the error was corrected.

Q.—I want it right upon the record? A.—Yes.

Q.—We cannot carry it in memory, and we must have it in such shape that it will not mislead? A.—Yes.

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Q.—And this statement which you now produce (Exhibit 595) made in 1901 really went back to 1877, twenty-four years, and you undertook in 1901 to undo what had been done by the other directors during all those years. That of course is so? A.—What had been done by the management. I would not bring in the directors.

Q.—I suppose it had been done by the management under the instructions of the Board? A.—No, by the management. I doubt if the directors knew anything about it at all.

Q.—Did the management of those days know less about it than the management of 1901,—less about what was fair under the existing conditions? A.—I would like to point out, that under the charter the amount that should be paid to shareholders is left absolutely to the discretion of the directors. The amount that shall be paid to shareholders is decided by the directors from time to time, and this account that we have been talking about, is not the directors' account, but what the shareholders are to get is not settled by an account, but by resolution of the directors from time to time.

Q.—I am aware of that? A.—This account that we called the shareholders' account, is nothing more or less than a memorandum or account kept by the management of the amount which in their judgment is the proper amount accruing to the shareholders, but it does not take effect and become binding upon the company until acted upon by the directors.

Q.—That is all quite satisfactory, but that lies upon the surface you know. It is perfectly manifest, is it not, that from time to time as the methods which had been adopted and had been followed, fell short of providing dividends which you desired to pay to your shareholders, you took these various means of producing funds which you could turn into dividends? A.—Yes.

Q.—That is perfectly manifest as you say, and I am pointing out to you that in 1901 you undertook to undo all that had been done by the previous management in 1877 in that respect? A.—That was right.

Q.—And you did it for that purpose? A.—Yes.

Q.—Then the question I ask you, and which you have not answered me yet, unless by inference, was this? Do you think the management in 1901 was better able to judge than the management in 1877 as to what was fair to the shareholders under the conditions that

then existed? A.—In the early years of our company—

Q.—Can you not answer that more shortly? A.—The later management was able under the circumstances to decide that better.

Q.—To decide what was fair in 1877 better than the management of 1877?

A.—No, I would like to state my position a little more clearly because a short answer would be apt to be misunderstood. In the early years of our company we, the Sun Life Assurance Company, like every company nowadays even, then and now, had a very hard struggle. All young companies have a hard struggle, and we naturally had to be—we made use of the shareholders in every way possible to benefit the policy holders—

Q.—You paid them pretty fair dividends all the time? A.—Digressing to answer that point, the shareholders who put their money into new companies are putting their money into one of the most risky things on the face of the earth. A young life insurance company is a very risky investment for the stockholders. If the investment later on turns out successful and the company gets thoroughly established, it becomes one of the most successful. At the start it is one of the riskiest, and later on it is one of the safest, and our shareholders put their money in those early days into the establishment of a new company, which was then a very risky investment. We discriminated against the shareholders in every way possible in those early days in favor of the policy holders. Now, however, that the company has got into an entirely different position, and is very strong, has made large amount of profits, and the policy holders are getting very large profits, and furthermore now that we have cut the proportions of the shareholders profits down from twenty per cent. to five per cent. we say that it is only right to undo any of these special parings off so to speak, that we put upon the shareholders in the early days, because the policy holders are no longer in the position of needing any special favors. In the early days the policy holders needed all the favors they could get, and to-day they are in a position where they ought to be highly delighted, and getting large and satisfactory profits, and the day when they needed to get anything to the injustice of the shareholders, is long past.

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Q.—What is the lowest dividend your shareholders have ever got? A.—Six per cent. upon the amount of the investment.

Q.—How long since they have been getting fifteen? A.—Getting fifteen for eight years.

Q.—And how long before that had they been getting twelve? A.—Could not tell without looking it up.

Q.—Your shareholders have always received dividends never less than six per cent.? A.—Yes, that is right, but the company is prosperous, why should not the shareholder share in that.

Q.—But they are sharing not only in that prosperity, but sharing in the prosperity brought about by the use of the policy holder's money. You are undertaking to readjust figures founded upon conditions as they existed at the time? A.—Yes, I would like to emphasize there that under our charter the action of the directors is absolutely final, and if the directors choose to do a thing like that, it cannot be criticised. There is no rule binding them or prohibiting them. They are breaking no rule or condition of any kind, except a little regulation that they made of their own making, and which lasts only so long as they choose it shall last, and then whether they have acted justly or not, we must go by the fact, that while they have not been bound to do this in reality they have been remarkably liberal, and have gone ahead of all the other companies in their liability to the policy holders. They cannot be criticised because they are the only judges of how much shall be given. They cannot be accused of doing wrong because it is only their own regulations that decide it, and the fact that they have been so liberal in cutting down their percentage speaks for itself in saying whether they have been liberal or not.

Q.—Then as to your dealing with the expense branch, that you have given us a statement of, which I have here. A.—There is a paper that was attached to that as part of that voucher.

Q.—Is it an explanation of that? A.—It is an explanation of that and a voucher.

Q.—It will be attached to that and put all together. Now you have done the same thing in that regard, you have gone back to 1876 in this case? A.—To the beginning of the accident account.

Q.—And you have undertaken to revise what the management of all

those years thought was fair? A.—Yes, that is right.

Q.—Do you suppose that the management say in 1876 was not capable of determining, and determining with pretty considerable accuracy, how much of the general expense account should be tax upon the accident branch? A.—Well, in 1876 I was not there myself, but from a few years after that, I myself settled the percentage. So it is myself you are talking about.

Q.—What years did you settle the percentage? A.—I beg pardon, I should not say that. I was one of those that settled it.

Q.—When did you become one of those that settled it? A.—1877.

Q.—Take in 1876 first, because that is a unique year. You had nothing to do with it. They seem to have been rather microscopic that year. They charged the accident branch with 42½ per cent. Do you suppose that was an accidental or casual figure or was it arrived at by the management of that day according to what they knew of the correct proportion to charge? A.—It was fixed, as I have no doubt it was, as those of a few years afterwards, it was fixed, not upon the principle of how much was correct, but of how much we could charge against it with any decency.

Q.—Do you say so? A.—I do.

Q.—Why did they not charge up fifty or forty-five? Why did they say forty-two and a half? It looks as if they had considered it with great care? A.—That is a matter of opinion altogether. A little later on you will see it is fixed at fifty.

Q.—What I am trying to call your attention to is this: That the management of that day, if it did its duty—and I want to assume that it did—would know more about the condition that then prevailed, would know more about the proportion of expense to be charged than we could to-day? A.—I do not agree with you, because the management is the same. There has been no change in the management.

Q.—Do you want to put the thing in the shape you said a moment ago, that you were deliberately charging the accident branch too much? A.—Yes.

Q.—Why? A.—Because we wish to aid the policyholders in every possible way we could, with any decency in treating the shareholders.

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Q.—Then you say it was a deliberate policy on the part of the management of those years, the years during which you know about, the deliberate policy of that management to make the accident branch pay more than its fair share of expenses? A.—It was.

Q.—And you say that was done out of benevolence for the policyholders? A.—No, I do not. I said it was done out of consideration but not benevolence, because as I said every young company has a hard struggle to get along, in order to have profits at all to their policyholders. We had to skimp and save on every possible thing, and we skimmed and saved on the shareholders.

Q.—Were you decently able to charge the proportion you did charge? A.—Yes.

Q.—Then it was a decent thing to do the accident branch, and that means a fair thing if I understand it? A.—It was the outside thing that would be fairly done.

Q.—That could be fairly done? A.—It could be defended.

Q.—It could be fairly done? A.—It is a matter of opinion.

Q.—Won't you put it that way, that it could be fairly done. I do not want you to put up something and say it could be defended, because that does not mean anything. Was that a fair thing to do? A.—No. I say it was the outside thing that could be done in any fairness.

Q.—Could it be done in any fairness? A.—Yes, it could.

Q.—Then it was fair and was done? A.—After a fashion.

Q.—What does that mean? A.—In a matter like that it is largely a matter of opinion how much of the head office management expenses should be charged against such a branch. Considerable depends on the judgment of the management, and any percentage between what we afterwards did charge there and the 50 per cent. we charged in the olden days could be defended, and in the olden days we charged the outside figures that could with any decency be charged. Later on when the time for generosity to the policyholders, or rather I will put it, when the time came that the policyholders no longer needed any assistance from the shareholders in that way, then we said, the time has come to treat the shareholders more fairly.

Q.—We know what the purpose of it was, because you told us that frankly, but what I am trying to get

at is whether you had any reason for undoing what you just told us was fairly done when it was done. A.—I said it was fairly done in the sense that it was one of the percentages that could fairly be fixed. I do not say that it was the fairest because it was not the fairest.

Q.—The method you adopted in 1901 was to commence in 1876 and reduce the percentage of expenses in that year from 42½ to 25 per cent. In 1877 from 40 per cent. to 25 per cent. In 1878 from 48 to 25 per cent. In 1879 the 40 was left untouched. What made you think the percentage ought to go up in 1879? A.—I would like to read this part of the exhibit, because it explains the whole thing.

Q.—I am going to put that in as your explanation, but I would rather hear you would answer the questions the way I am putting them at the moment, if you can. If you say you cannot that is another thing. A.—In those early years the bulk of our accident business—that is in the years 1876, 1877 and 1878, the bulk of our accident premiums consisted of premiums we received under one contract for the insurance of the members of the Commercial Travellers' Association of Toronto. Those premiums were paid to us, they were not collected through agents, not collected in odd amounts, but came in one cheque at one time from the secretary of the Association and all the commission we had to pay upon it was five per cent., and nevertheless in those years we charged—although we had only to pay five per cent. commission upon the bulk of all premiums that were received in those years, we charged 42½ and 40, and 48 per cent. That is an illustration of what I have mentioned about the overcharging.

Q.—What I asked you was, why in 1879 you thought it proper to increase the percentage you were going to charge from 25 to 40 per cent.? A.—Because, if I remember right, in that year, the next year, the contract with the Commercial Travellers' Association dropped out, and the character of the business changed, and we had a larger percentage of business to pay, because it was ordinary business and not under that contract.

Q.—Then in 1881 it went up to 45 per cent. What was the reason of that? A.—I rather think that the

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reason was, that after that date, commissions began to go up a little bit. The matter was gone into carefully at the time this was made up, and it was adjusted on what was considered a perfectly fair rate, and it was considered that it was perfectly proper to charge only twenty-five per cent. in the three years, when the bulk of the business consisted—

Q.—We have got past this. A.—Then two years more when we were only paying about twenty-five per cent. on most of the business I think, and when the rate got up to thirty on most of the business, it was made—

Q.—The rate was twenty-five per cent. after you dropped the Commercial Travellers? A.—It was twenty-five per cent. outside of the Commercial Travellers.

Q.—And it was twenty-five per cent. on all, and then it went to thirty per cent. in 1881 and has it continued at that? A.—It continued at thirty per cent. ever after that. I do not think we ever gave more than thirty.

Q.—Don't you think those matters were taken into consideration when the percentages were fixed in 1877, 1878, 1879, and so on? A.—I can add nothing more to what I have already said.

Q.—Did you not take those things into consideration? A.—Yes.

Q.—And you decided what percentage you would charge, having regard to all those circumstances? A.—Yes.

Q.—There is one year in which forty-eight and a third per cent. was charged. That looks like a close computation. Do you remember about that? A.—I do not remember that exactly. I cannot explain exactly how we happened to hit on that percentage. It is twenty-two years ago.

Q.—Then for the last seven years that are covered by this statement, whereas during these years you have charged fifty per cent., in your amended statement you charged twelve and a half? A.—Yes, that is another illustration of the gross injustice that was done to policy-holders because—

Q.—I do not quite understand you. In one moment you say it was fairly done, and in another moment you characterize it as a gross injustice? A.—I will score out the word "gross."

Q.—The thing cannot be fair if it is unjust. A.—I will take this phraseology; this is an illustration of

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how the branch was really over-charged; these premiums for many years have consisted exclusively of premiums on old policies with combined life and accident under one contract. All regular insurance has long ago been stopped, and we get no accident premiums now at all, and have not for a number of years, except the two are combined under one contract; the whole of that comes in without any commission at all. Most of it will bear five per cent. and none of it bears over seven and a half per cent. Now we charged that with fifty per cent., and in this readjustment we cut that down to twelve and a half per cent., which is ample.

Q.—That is you take the whole sum of the difference, and you do what you call improving it; you made it at five per cent. compounded running over all those years? A.—Yes.

Q.—In that way you arrive at the sum which you take out of your general surplus and put into your shareholders' account? A.—Yes.

Q.—With the object and for the purposes which you have stated? A.—Yes. (Statement Exhibit 596.)

MR. SHEPLEY: Mr. Macaulay desires them attached and there is no reason why it should not be done.

Q.—Then let me ask you a question going back to the time when you increased your capital stock. Mr. Robertson Macaulay has told us of the circumstances under which that was done. At that time you paid up \$12,500 upon the existing capital, by means of a bonus, making it \$75,000. A.—Yes.

Q.—Could you at that time, by means of a bonus, have paid up the whole of the capital stock that had been subscribed? A.—You mean the whole of the \$500,000?

Q.—Were you in a financial position, I should not have said to pay the whole of it, but to raise the money you wanted, the \$100,000? A.—We could not have done so, speaking from memory, without giving a much smaller proportion of profits to the policy holders.

Q.—I can quite appreciate that, but were you in a position to do it? A.—You mean, had we enough surplus?

Q.—Yes, A.—I should say we had. Yes, plenty.

Q.—That was not done and for what reason? Why did you prefer the other way of issuing fresh stock? A.—Because we did not want to impose upon

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the policy holders. We wanted to put the transaction through in a form that would help the policy holders and not hurt them.

Q.—Do you remember the circumstances of there being an accidental over issue of the new issue? A.—No.

Q.—In ledger 3 at page 174 we find this memorandum, dated the 2nd December 1897 and signed by the then Vice-President, Mr Ogilvie. It says that by some accident there has been an over issue of 20 shares and to adjust this Robertson Macaulay and T. B. Macaulay have relinquished their rights to an allotment of 15 and 5 respectively. Do you remember that now? A.—It had absolutely slipped my memory but it comes back to me as you read it.

Q.—“On condition that they shall be entitled to an allotment at the same price out of any further issue of stock that may be authorized in the future.” A.—I remember it now. I had entirely forgotten it, but it comes back to me.

Q.—If it comes back to you so that you can explain it, I wish you would. A.—I suppose the memorandum which is put in here will explain it as well as anything. It is dated the 2nd December 1897. “In balancing up the number of shares, it has been found that 20 shares have been subscribed in excess of the authorized 2,000 owing to the accidental omission to enter up Dr. Horsey’s 20 shares. In order to rectify this error the President Mr. R. Macaulay and the Secretary Mr. T. B. Macaulay, agree to waive their right to an allotment of 15 and 5 shares respectively on the understanding that should a new issue of stock be authorized at any time in the future they will be entitled to an extra allotment of shares at the same price as they would pay at the present time for said stock, that is at \$45 per share.” Signed by the President and Secretary.

Q.—That is at a premium of \$30? A.—Yes.

Q.—Whose mistake was that? A.—I do not know.

Q.—I suppose it was a mistake for which the management was responsible in some way, either directly or indirectly? A.—I suppose so. We are responsible for every mistake in some form.

Q.—When the mistake was rectified, the management seems to have taken good care that it was rectified in such a way that it would not injure the

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management. A.—I think we did the fair and proper thing.

Q.—You gave it up, but you said, If we ever issue more stock, whatever its value may be, we must get it at 130. A.—No, 300 per cent. 45 is 300 per cent of 15.

Q.—I thought you told me, or perhaps it was Mr. Robertson Macaulay, that the \$30 premium was once for all and that there was to be no further premium. A.—Oh, you mean the \$30 premium upon the par value? But we were never going to call that up. On the amount paid it was 300 per cent. and there is no intention of ever calling up any more.

Q. I am not concerned with that. I am concerned with the entry made at the time, and the safeguarding of the interests of the Messrs. Macaulay in the minute that is made there. A.—Yes, I think that was an absolutely fair and proper arrangement. It is only in case there should be another issue.

Q.—Supposing they had wanted to issue stock in the future and supposing the business were so prosperous that they could issue it at 150 or 200, or at any figure in excess of 130, you still under that would have been entitled to have the 20 shares at 130, which had been issued to you by mistake?

Mr. R. Macaulay:—That is purely a matter between the shareholders and not between the policy holders. A.—I think what the President says is quite right; that that is a matter between the shareholders and us, and not between us and the policy holders.

Q.—Are you under the erroneous belief that this Commission is not concerned with the rights of shareholders as well as the rights of policy holders? A.—Well, what is your question, Mr. Shepley?

Q.—I asked you if you could not see that if at any time after that it had been desirable in the interests of the company, that stock should be put upon the market, that if a fresh increase should take place, and the condition of the company warranted putting it on the the market at 150, 175 or 200, cannot you see that by that minute you had reserved to yourselves the right to get it at 130? A.—Yes.

Q.—And to perpetuate the mistake that you yourselves had made or that had been made by the management? A.—Well, made by some of the clerks in the office. You may say that the management is responsible, but I don’t

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think the management made the mistake, I mean not themselves. The whole thing is a bagatelle; 20 shares is the whole thing. At the present time the market value of this stock is about \$55 a share, \$10 a share difference, \$200, and the whole of this thing is about \$200.

Q.—The whole of what thing? A.—The whole of this discussion.

Q.—I am not discussing it. I am asking you if you can see it? A.—Certainly, I admit the principle and I say it is a bagatelle, one way or the other.

Q.—It is a little one. A.—It comes back to me now, and we thought at the time that this was an admirable and perfectly fair arrangement to everybody.

Q.—Then you were going to have prepared for me or hunted up, the condition of things about that Beaudry interest? At a later time if you have not been able to do that. You observe in this agency ledger that a balance is struck. This is at the end of 1901, and I am told that it is so in each case since. A balance is struck between the amounts which certain agents owe you and the amounts which you owe to certain other agents. A.—Yes.

Q.—In 1901 agents owed you \$67,481, and you owed agents \$65,000 odd. There is a "floating credit." What does that mean? A.—A balance written off. An amount written off.

Q.—Then it would be about how much? A.—About \$46,000.

Q.—Then what did you do in your Government returns with respect to these balances? You did not, as you told us yesterday, include the amounts you owed agents. A.—The amounts that agents owed us.

Q.—Yes, I should have said, the amounts agents owed you. That you did not do because you understood the policy of the Department was against that being done. A.—Yes.

Q.—Then did you return the debts you owed to the agents among your debts? A.—We simply ignored the whole of the agents' account altogether. Ignoring both sides of the account and allowing the fact that certain agents had paid us certain amounts on account to go so far as it went, against any amounts that were due to us by agents. Treated the account as a whole.

Q.—Of course you can see that whether the agents' debt to you was a good or bad debt, your debt to the agents was a perfectly good debt? A.—Yes.

Q.—I do not want to do more than call your attention to it. It should have been, of course, included in your return of liabilities. You concede that at once, don't you? A.—There was \$22,000 in round amounts more due by agents to the company than was due by the company to agents, and we simply dropped that amount out altogether. If we were to go upon the principle of ignoring items that were due to agents altogether, that is the gross amount, then I suppose we should have put in this other amount as due by the company, but the principle we went upon was just to ignore the net amount, which in this case was about \$22,000; drop it out of account altogether.

Q.—It grew largely in subsequent years. A.—Apparently it did.

Q.—The effect of that was, notwithstanding your ostensible yielding to the Government pressure, to take advantage in your statement pro tanto of the existence of the agents' debt to you? That is so, is it not? A.—The ignoring of this thing was a voluntary act on our part.

Q.—Was not the effect of it as I have said? A.—The effect of it was that we only dropped out the net difference instead of the whole amount.

Q.—That is you did have credit in your statement? A.—It came down to that.

Q.—For part of what the Government was telling you was not an asset? A.—Well, that is a matter of opinion. Telling us unofficially, but which is allowed by the Insurance Act, and which two-thirds of the insurance companies include.

Q.—Unofficially—I do not mind your putting that word in—you knew it was the Department's wish that that should not appear as an asset at all. A.—We did not know it in 1901, but we knew it since. But at the same time, as I have said, two-thirds of the companies do it and it is allowed by the returns and printed in there.

Q.—That practice has continued down to your last return? A.—Yes. It is a little off-set to the large amount of assets that we have not included.

Q.—Now, I pass to a different subject. I am going to take up a specific investment of yours, the Shawinigan Power Company bonds and stock. What was your first dealing with that company? I think it was a loan, was it not? A.—In 1901 we bought \$50,000 worth of their bonds at 95 and interest. That was our first dealing with the Shawinigan. Paying for

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them one-half on May 29th and one-half on June 5th.

Q.—They appear there as two purchases, but, no doubt, were only one. A.—Yes. Arranged for at one time.

Q.—In May, 1901, your book shows that you paid for \$25,000 par value of the bonds and you paid 95 cents for that lot, and in June you made the other payment. A.—June 5th.

Q.—For the other \$25,000, also at 95. That was your first dealing in these bonds? A.—Yes.

Q.—What was the Shawinigan Water and Power Company? A.—The Shawinigan Water and Power Company is a company that owns a very large water power at Shawinigan Falls, about 70 miles from Montreal. It is one of the largest water power companies in Canada and not only supplies power locally but sends power in to Montreal, and the power is used particularly in lighting the city and running the street railway and so on.

Q.—What had you to do, if anything, with the origination of the scheme of that company? A.—Absolutely nothing.

Q.—Then this \$50,000 of bonds, what issue was that out of? A.—That was out of their issue of First Mortgage Bonds.

Q.—Do you remember the amount of that issue? I have the deed of trust here, you may refresh your memory by it, of course? A.—\$1,500,000 was the authorized amount, apparently.

Q.—Now, I suppose when you bought these bonds you made yourselves familiar with the affairs of the company to a sufficient extent to enable you to judge of the sufficiency of the security? A.—Yes.

Q.—I see the recital in the trust deed is that the capital stock is \$6,000,000, of which \$5,916,500 has been fully subscribed and paid up. Then there is a recital of a provision in the charter of the company, by which the company is authorized to borrow and to issue bonds to an amount not exceeding 75 per cent. of the paid up capital stock of the company. You were aware, of course, of those provisions? A.—Yes, I think we were.

Q.—What did you know with regard to the payment of the stock that is spoken of here; "\$5,916,500 has been fully subscribed and paid up?" A.—I knew very little with regard to that, not having had anything to do with the details. I may say we knew, in a general way, that this amount of stock had been issued

for the purpose, I suppose, of the property and in connection with the erection of the plant, but the exact details, as to how it was issued or who got it, we did not know, although we were furnished with a list of the shareholders, if I remember right.

Q.—Let us go back to the inception of the transaction, because I dare say you are not unfamiliar with that sort of transaction. Of course nobody supposed that anything like \$5,916,500 had ever been put up by anybody in cash? A.—No, I did not suppose so.

Q.—Nor did anybody suppose that \$5,916,500 worth of assets had ever been put up for that stock? A.—Well, I would not have supposed so.

Q.—And you did not suppose so? A.—No.

Q.—Well, what is the way these things are done, in your experience?

A.—I would imagine that you, Mr. Shepley, would, as a lawyer, know more about those things than I would.

Q.—We do not, any of us, know anything upon this record until it gets there? A.—In this individual case I know absolutely nothing of how it came about.

Q.—You were purchasing \$50,000 of these bonds? A.—Yes.

Q.—And you purchased more afterwards? A.—Yes.

Q.—I want to know what knowledge or what understanding you had, that is quite sufficient for my purpose? A.—I had no knowledge. My understanding would have been that that capital stock had been given in exchange for the property of the Shawinigan Company, such property being valued at an inflated price.

Q.—Being valued at whatever figure was chosen to be put upon it as limiting the issue of stock? A.—Yes.

Q.—Then the owner of the property would, I dare say, get that stock? A.—I suppose so.

Q.—How would it be brought by the Shawinigan Power Company to you? A.—The stock?

Q.—Yes? A.—We got none of the stock.

Q.—You did get some after? A.—Later, yes.

Q.—Then how would the stock get into such a position that the Shawinigan Power Company could deal with it, because you know it did deal with it? A.—The Shawinigan Power Company so far as I know, did not deal with it at all. We got the stock from shareholders.

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Q.—And the shareholders would get it from whom? A.—They would probably—I am only guessing now.

Q.—You are saying what you suppose? A.—What I would presume from general principles. The actual details in this case I know absolutely nothing about. I would presume that the man or men who sold the property to the Shawinigan Company would get this stock and distribute it around among his friends or the persons entitled, as he chose.

Q.—That is a fair statement, and I suppose it would all be pre-arranged before the transaction was carried out, as to who was to have the stock? A.—Possibly. I could not tell you.

Q.—Who his friends were would be pretty well known? A.—Probably so.

Q.—They would probably be the promoters of the enterprise? A.—Very likely, I do not know.

Q.—Then you thought it would be a good investment to purchase the stock? A.—Yes.

Q.—Of course that would be entirely dependent, in the first place, upon whether the bonds were validly and properly issued, and secondly upon the value of the property which they covered? A.—Yes.

Q.—Did you at all inquire before purchasing the bonds into the legality of the issue, having regard to the provisions of the charter? A.—We did. You will find that —

Q.—Yes, I know; you were advised. I do not want to go into it in very much detail. You were advised that the bonds were validly and legally issued? A.—We have a legal certificate. We were so advised.

Q.—And being so advised you went into the transaction? A.—Yes.

Q.—Did you know anything with regard to the rest of that issue of bonds, the \$1,500,000? A.—I think we did, but I would need to refresh my memory by looking over the docket to see. I think we knew who had taken the largest proportion of the rest of the bonds.

Q.—Had you anything to do with underwriting that issue? A.—Nothing.

Q.—Nor your company? A.—No.

Q.—Nor you personally? A.—No.

Q.—Nor anybody connected with your company? A.—To the best of my knowledge and belief, no.

Q.—Not connected with your Board of Directors? A.—No, not so far as I know.

Q.—And your purchase of the \$50,000 was an independent purchase not

made in concert with anybody else, but a separate and distinct investment of your own? A.—Absolutely.

Q.—Then what was the next transaction you had in connection with the company? A.—On February 19th, 1902, we bought another \$25,000 of the same issue of bonds and on March 6th, 1902, a fourth amount of \$25,000, the two last purchases being at 98 and interest.

Q.—That made altogether \$100,000? A.—Yes.

Q.—Of the bonds out of the issue of a million and a half? A.—Yes.

Q.—Do you remember what influenced the market so that you had to pay that rate as against 95 in the preceding year? A.—I don't remember the exact details, but in some way or other the market price had gone up. The earnings of the company had developed and increased, and the quality of the investment had improved, and if I remember right when we got this 95 it was a special chance, the first lot.

Q.—When speaking of the earnings of the company, did you not understand that the million and a half was being borrowed for the purpose of establishing the plant there and making the property productive? A.—No, the plant was already partially in operation, if I remember right.

Q.—When you bought? A.—Yes.

Q.—And out of this issue of a million and a half, that was all the money there was? A.—Yes, I don't say that was all the money there was.

Q.—But all the money you knew about? A.—I imagine. Please don't understand because I have said that the 6 millions of stock—it was not all water, or at least I don't say it was, I would imagine it had some value, just how great I don't know.

Q.—You don't know of any substantial money in the concern except the million and a half of bonds? A.—Well, I would think that probably there was a few hundred thousand of cash put in, but that would be all, I should imagine. We looked more to the earnings.

Q.—Then, do you say that at the time of your purchase in 1901 of the first \$50,000 of bonds, that the company was in operation and earning money? A.—I think it was partially, not entirely. I can refresh my memory from the docket, but speaking from memory I think so. The date of the memorandum I have now is 28th May, 1901, the day before our first pur-

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chase. This is a memorandum to the effect that the company already has contracts signed and completed, covering an income of \$152,050 per annum, and that it has also two other contracts in process of completion which would largely increase that amount, covering a sale of 2,500 horse power more, besides an estimated revenue, from another source, of \$22,500.

Q.—That does not indicate that the company was then in operation you know, it indicates that they were making contracts in advance of their being ready to carry them out. A.—My recollection is that the work was very largely done, and that these contracts, for instance that with the Pittsburg Company, which was one of the largest—I know, because we went out and saw the plant—that the whole buildings of these other companies were completed.

Q.—And waiting for the power? A.—I think they were getting part of the power. My recollection from memory is that the plant was in partial operation but not complete.

Q.—They were not, at all events, in a position to furnish the power for which they had made contracts? A.—I think they were.

Q.—All of it or only part of it? A.—My impression is that they had already developed enough power to supply all the contracts that they had made, and that they were just putting in further plant for further power for further contracts.

Q.—That is your recollection and I am not finding fault with that. You may be quite right about it, but the memorandum you read would rather indicate by its terms that they were preparing to enter upon these contracts, but had not yet arrived at a position from which they could furnish the power. A.—My memorandum would lead me to understand that the \$152,000 was an actual accomplished thing. Some of our directors went out and looked over the whole thing.

Q.—You expanded the memorandum a little in the statement you made to us, and perhaps that is where I got the idea. What you said was that they had contracts. A.—The word contracts occurs here.

Q. I do not know that we will delay over that. Your general impression is that they were, at all events partially, in operation. A.—Yes, the question was asked me as to whether we knew who had taken other blocks of these bonds. I have a memorandum here that the Bank of Ottawa had

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taken \$500,000, and that Farson, Leach & Co., one of the largest banking companies in New York had taken another \$500,000.

Q.—And your \$100,000 was coming out of the other \$500,000. A.—My impression is that the \$50,000 came out of the Bank of Ottawa's block and the other \$50,000 out of the final \$500,000.

Q.—Did you gather from that that the Bank of Ottawa was doing some of the underwriting? A.—Yes.

Q.—And that the New York Bank was doing some of the underwriting? A.—The New York Banking House.

Q.—Then between the first purchase at 95 and the second purchase at 98 you say you suppose the market value had increased, because the operations of the company had become wider. A.—The earning power greater. I rather think now that the reason was that the first \$50,000 came out of the first million of bonds which had been taken by Farson, Leach & Company and that we got in on the same terms as these people for that \$50,000, but that the Shawinigan Company would not sell their last \$500,000 on as favourable terms as the first million.

Q.—Have you any memorandum with regard to the second purchase made about that time? A.—I don't see any. I may explain that our directors went out and saw these things and we were very familiar with it that way.

Q.—Did you in connection with either of these purchases receive any stock? A.—Not one cent.

Q.—And it was not arranged that you should? A.—No.

MR. LANGMUIR: What per cent. were the bonds? A.—Five per cent. bonds.

MR. SHEPLEY: What was the next transaction you had in connection with this company? A.—Perhaps before we drop this, will I explain that this issue of \$100,000 was subsequently—

Q.—No, I want to take it chronologically. It will be more satisfactory to me, if it does not make any difference to you. A.—The next transaction, I would rather take from the books. (Refers to a ledger.) On November 11th, 1902, we made a loan of \$250,000 at six per cent. interest to the Shawinigan Water and Power Company on the security of \$313,000 of their new bonds, and received in

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connection therewith a stock bonus of \$125,000. And on May 27th, 1903, we made a loan of \$100,000 more on the security of bonds of the company. I will go by this statement. The total loans made in 1902 and 1903 coming to \$356,500, of which they repaid, during 1903, \$200,000 on the security of, altogether, \$397,000 of their bonds.

Q.—And getting in bonus stock? A.—\$155,700.

Q.—Was it all one transaction or was it two separate and distinct transactions? A.—Two separate transactions and apparently more. There was one on November 11th, 1902, there was another on May 27th, 1903, and then that was replaced. These were partly repaid and replaced then by another loan on November 2nd, 1903, which consolidated the others.

Q.—That does not appear in the statement which you have furnished. A.—I will get an exact statement for this afternoon.

Q.—What I was asking you was, were these transactions that you have spoken of separate and distinct transactions, each one standing upon its own footing, without regard to the others? A.—Do you mean the purchase of bonds originally.

Q.—No, the transactions with the company. A.—That is the two loans, separate from each other?

Q.—The reason I ask you is, I do not know whether it is a running thing or not. You have got under November and December, 1902, "Shawinigan Water and Power Company \$157,000. Shawinigan Water and Power Bonds with \$62,000 stock bonus, rate of interest six per cent., amount \$125,000, date November 31st, 1903." Now, just tell me what all that means. A.—I will bring an exact statement this afternoon, Mr. Shepley, that will get the thing straightened out. It is not clear to me at present.

Q.—Meantime we will go on; this transaction which is ear marked as being November and December, was that a transaction all by itself? A.—Yes.

Q.—It has no connection with the subsequent loan? The subsequent loans were not arranged when this was made? A.—I would like to check that. It was arranged up to \$250,000 at the start, but no further, as far as I remember.

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Q.—You agreed to lend up to \$250,000? A.—To the best of my recollection, nothing further.

Q.—And what were you to get, how many bonds and what shares? Supposing you read that entry and let it go down upon the record. A.—"Four months' loan of \$250,000 payable in four equal instalments as called for. Renewable for a further four months and again for another four months from the last expiry. Security \$313,000 new interim bonds of the Shawinigan Water and Power Company. These latter are temporary bonds or are represented to be temporary bonds which are exchangeable on and after the 1st January, 1903, for permanent bonds, and the company's notes from time to time for the amount of cash advanced, which bears interest at six per cent. from the date payment is made. All of these notes are dated November 1st, 1902."

Q.—The notes would be collateral to the main loan upon the bonds?

A.—The main loan was on the notes, and the bonds were collateral.

Q.—You would put it that way? A.—Yes.

Q.—The memorandum does not, but I am quite willing that it should be put so. A.—It was a note to the company itself.

Q.—The transaction was that you were lending to the company \$250,000? A.—Yes.

Q.—The company was giving you its notes? A.—Yes.

Q.—Payable at intervals of four months? A.—Payable in four months, but renewable at its option.

Q.—Payable in four months for the amount? A.—Yes. And as security gave us also \$313,000 bonds and some of the shareholders of the company then gave us \$125,000 of bonus stock.

Q.—That was the arrangement? A.—Yes.

Q.—It was not carried out altogether at the time? A.—It was made in instalments.

Q.—Do you remember from what shareholders you got the bonus stock? A.—We dealt with Mr. Aldred; I think he himself and Mr. Greenshields were the ones who gave up most of the stock. We did not enquire. It was none of our business who gave the stock so long as we got it.

Q.—I suppose an examination of the books of the company will show

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who transferred it to you? A.—Yes, I think it was Mr. Aldred.

Q.—What was Mr. Aldred's position in the company? A.—Secretary and Treasurer, I think.

Q.—Then that speaks of interim or temporary bonds. Before that transaction had taken place there seems to have been a second deed of trust, and I want to see what there is to be said about that. On the 17th May, 1902, which is practically two years after the first deed of trust, a second deed of trust is made covering an issue of three millions of bonds. You were aware of that, I suppose? A.—Yes.

Q.—The arrangement seems to have been with respect to the old bonds, as stated in the formal bond itself and also in the operative part of the trust deed. I read from page 14 of the document: "The company shall forthwith make, execute and deliver to the trustees, the parties hereto of the second part, all of the said 3,000 bonds and the trustees shall certify the same in due course for delivery on the retirement of the present outstanding issue of \$1,500,000 gold bonds of the company." That is the prior issue? A.—Yes.

Q.—Of which you held \$100,000? A.—Yes.

Q.—Then the bonds are described. "No bonds to be valid or obligatory until the same are certified and countersigned by the trustees." Then were your bonds retired at that time? A.—The original \$100,000 were redeemed and retired on August 2nd, 1904, at 105 and interest.

Q.—The time has not come for that yet, because that is after the third deed of trust. At all events the bonds you owned were not retired until August, 1904. A.—That is right.

Q.—That is sufficient for my purpose at present. Then there is a provision here for the issue of interim or temporary bonds to be replaced by permanent bonds, and is it your understanding that it was the temporary or interim bonds issued under the provisions of this trust deed that you were lending on? A.—Yes, the memorandum says so.

Q.—These temporary bonds I suppose were bonds which were issued according to the progress of certain works or improvements that were going on upon the property? A.—I think so.

Q.—And to pay for the improvements that were being made? A.—I think so. I may explain that I remember that the company had found that it could sell a great deal more

power and could greatly increase its revenue by developing its property further and considered that it was wise to make the plant a great deal larger than was originally intended, and that is why the additional amount was required.

Q.—And the money was borrowed for that purpose on the interim bonds? A.—Yes.

Q.—Then there is no doubt, I suppose, that it was the company that borrowed directly from you? A.—No doubt.

Q.—And in December they took up half the loan of \$125,000. That appears by the statement that you furnished to me? A.—I have not the full stock loan account here and it is a little bit awkward for me.

Q.—Was it understood that they should only get the money from you as they did the work, or as they earned it by the progress they made with their improvements? A.—My memory is a little uncertain on that point.

Q.—That would be a natural arrangement for you to make? A.—It would be a natural arrangement, and I will not say it is not perfectly correct, but I am a little hazy on that point.

Q.—The provisions in the trust deed would point to their only being in a position to deal with the bonds as the work progressed? A.—My recollection is that they would only get the bonds as the work was done under that trust deed, and the possession of the bonds would be proof that the work was done.

Q.—When they had got the work done, the trustees would certify to the bonds and they would come and get the money and pay for the work in instalments, that is the way these things are usually done, and that is, no doubt, the way it was done here? A.—No doubt.

Q.—Then can you tell me of the transaction that took place in January? I am afraid they are grouped in this statement? A.—We grouped them in order to simplify things and in reality that grouping has made it more difficult.

Q.—You had arranged to lend them \$250,000 and had lent them \$125,000 and I wanted to get information about the other? A.—I have not the book here about the stock loans. I have certain memorandum here but they do not give all the information I would like. I can give full information of them this afternoon. They

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got the balance of it on the 2nd January, 1903, and the 2nd February, 1903.

Q.—In January and February they got the balance. Just give me those two transactions? A.—\$62,500 on 2nd January, 1903, and \$62,500 on the 2nd February, 1903.

Q.—Did they contemporaneously give you certain other bonds in addition to the \$157,000 you had got in November and December? A.—On the 2nd January they gave us \$79,000 of bonds and \$31,300 of stock. And on the 2nd February, 1903, they gave us \$77,000 of bonds and \$31,200 of stock.

Q.—That made the whole security? A.—Yes.

Q.—And completed the loan? A.—Yes.

Q.—No doubt they gave you the notes also? A.—Oh yes.

Q.—And what you have said with regard to the stock bonus in the other case would be the same in this, transferred probably by Mr. Aldred? A.—I think so, although the company,

I remember, had a certain amount of bonus stock, the difference between \$5,900,000 odd and 6 millions was in the Treasury of the Company and it is probable it came out of that amount. I don't really know where it came from.

MR. LANGMUIR: That was a gift to you, though? A.—Yes.

MR. SHEPLEY: That bonus stock was to be your remuneration for the transaction in addition to the payment of the interest? A.—Yes.

Q.—And they were not to become entitled to have that stock back upon paying the loan and interest? A.—No, it was to remain our property.

Q.—Then had you any agreement upon the subject in writing, with the company? A.—In regard to what?

Q.—In regard to this loan? A.—Certainly.

Q.—That I would like to have? A.—We always have stock loan agreements and we certainly must have had it here. The note itself was surrendered when the loan was paid off.

Q.—You would preserve the loan contracts as evidencing your right to the bonus stock I would think? A.—The loan contract— I think that would be the note and it would be returned. However, we will see.

Q.—You must have had an agreement defining your rights in the bonus stock? A.—It was transferred outright. There would be a letter on the subject.

Q.—While Mr. MacNutt is looking for that, are you able to tell me what was the next transaction? A.—I will have to call upon Mr. MacNutt to assist me. I think the better plan would be for us to look that up and get it from the other book.

Q.—I would like to do this consecutively. A.—I don't remember them sufficiently. They are mixed up in my own mind and I would need to have the books to straighten it out.

Q.—Then, if your Honours think well of it, we might adjourn now until two o'clock and that can be prepared. I do not want to depart from this subject until I have finished it. A.—I am very sorry to delay you.

Q.—No one will blame you, Mr. Macaulay, but you will see that it is in such shape that we can do it rapidly this afternoon. There is an inquiry I can make in connection with the same matter that will take a minute or two. You remember a third deed of trust under which there was an issue of five millions? A.—Yes.

Q.—And you are interested in bonds issued under that. I do not want to go into that in detail. A.—What is the date of the deed of trust?

Q.—The 14th June, 1904. You had transactions in August? A.—My recollection is that the three million deed of trust was replaced by the five million deed of trust, and that we did arrange to take a certain amount of bonds under that last deed.

Q.—The point I want to ask you about is this; you will remember that the provision in the charter recited in the earlier trust deeds was that the bond issue was authorized up to 75 per cent. of the paid-up capital? A.—Yes.

Q.—Now this company's capital paid up never exceeded six millions of dollars, did it? A.—I think not.

Q.—And this was a five million dollar issue? A.—Yes.

Q.—That is more than 75 per cent., of course. Can you explain that? A.—There are two points; first of all, I rather think they got their charter changed by an amendment.

Q.—This recites the same section 10 that is recited in the other, but it does not say what it authorizes. A.—And in the next place I doubt if five millions were outstanding; 75 per cent. of six millions would authorize four and a half millions. I doubt

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if more than that is outstanding. We trusted these points to our lawyers.

Q.—The interesting question is whether or not there was any amendment to their powers? A.—I think there was.

Q.—We will ascertain that. You need not trouble further about that.
(At 12.30 adjourned to 2 o'clock.)

AFTERNOON SESSION.

THOMAS B. MACAULAY, examination resumed by MR. SHEPLEY.

Q.—What have you brought? A.—I made a memorandum and left it down at the office, but I can get along without it.

Q.—What have you got for us in the recess with respect to these dealings? A.—I can go through the whole thing if you like.

Q.—I will check you if you go too fast? A.—The second loan that we made to the Shawinigan Company was one of \$100,000.

Q.—Would you let me take that statement so that I can readjust my own ideas from that statement by what you are now telling us. The second loan was one hundred thousand dollars? A.—One hundred thousand dollars. I made a memorandum and I must have left it at the office after making it, but still I know it. May 27th, 1903, \$100,000, paid in instalments as follows: \$10,000, May 27th, 1903.

Q.—That is the day you lent it?

JUDGE MacTAVISH: Q.—The loan was advanced in instalments? A.—Yes, paid by us, that is, advanced by us in instalments. \$10,000 May 27th, 1903; \$10,000 June 2nd, 1903; \$20,000 July 2nd, 1903; \$20,000 August 4th, 1903; \$20,000 September 1st, 1903; \$20,000 October 1st, 1903; making a total of \$100,000, bearing interest at six per cent. secured by the temporary bonds of the company of sufficient amount that we only advanced 90 per cent. of the amount, and with that we got a stock bonus of fifteen thousand dollars.

MR. SHEPLEY:—Q.—Can you tell me the face amount of the bonds you received? It would be about \$110,000? A.—\$111,000 it would be—at least I think so.

Q.—And the bonus stock was how much? A.—\$15,000.

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Q.—That is that transaction? A.—Yes.

Q.—That was on the 27th May? A.—Yes

Q.—Now the next one—you will consider, unless you tell me to the contrary, that I am assuming that in other respects the terms of these loans were the same as you have given us with regard to the \$250,000; that is you are absolutely entitled to the bonus stock? A.—Yes.

Q.—That you took notes? A.—Yes.

Q.—And that the bonds were held as collateral to the advances made, I understand? A.—Exactly.

MR. LANGMUIR:—Q.—Renewable every four months? A.—The notes were due, all of them—these notes were all of them due on November 2nd, 1903. The terms of the duration of notes were different, but in other respects they were identical. That made a total that we advanced to the company in the two loans of \$350,000.

MR. SHEPLEY:—Q.—Let me readjust this please? How much do you say? A.—\$350,000. There was an amount of accrued interest which came to \$6,500, and that was capitalized at the same time.

Q.—That is one of the things I wanted to find out? A.—That you have seen an item of, \$6,500, bringing the total amount we had advanced up to \$356,500.

Q.—Upon what loan was that interest in default? A.—It was not in default, but it was by mutual agreement capitalized.

Q.—What loan was it? A.—On the first loan of \$250,000; if I remember right, there was more than that. That was not the whole amount. They paid part and capitalized part.

Q.—Wait till we adjust that, so that upon the record we will have the adjustment with this before us. Your first loan was \$250,000? Your second loan was \$100,000. Capitalized interest on that loan \$15,000, making a total of \$356,500? A.—That is right.

Q.—And upon this sheet that appears in two sums, the second sum being an assembled item? A.—Yes.

Q.—\$125,000 half of the first loan, and \$231,500 being the other half of the first loan, the whole of the second loan and the capitalized interest? A.—Yes, the division being made according to the calendar years, the difference in amounts advanced in one calendar year and another.

Q.—I think I explained that; this is an assembled item of the transac-

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tions for the year along to December?
A.—Yes.

Q.—What bonus stock have you told us of up to the present time? A.—\$125,000 on the first loan, is that right? A.—Yes.

Q.—On the second loan \$15,000? A.—Yes.

Q.—And then what other bonus stock had you? A.—We have gone a little bit ahead. When the whole \$350,000 came due, they asked to have this renewed, because times were very bad. I have their letter asking for it.

Q.—That would be in what year? That would be in November 1903, you were apparently making both loans fall due finally after allowing for extension, on the same date, second November 1903? A.—Yes, they all matured at the same time, and the whole \$350,000 then became due, together with a capitalized interest of \$6,500. We then agreed to renew \$150,000 out of the \$350,000 together with a capitalized interest of \$6,500, making \$156,500 on condition that they would give us a bonus stock of ten per cent. over and above the interest, and in that way we got another \$15,700 because the half share could not be divided we got \$15,700 more on stock.

Q.—That was in November 1903? At that time both loans came due? A.—Yes.

Q.—And you agreed to renew \$150,000, plus the \$6,500 of capitalized interest? A.—Yes.

Q.—They paying up the balance? A.—No, the balance was taken over by the Merchants Bank of Canada.

Q.—At all events, you were to be paid the balance? A.—We were paid the balance in November, the Merchants Bank stepping into our shoes November 1st or 2nd, 1903, that gave \$15,700 more.

Q.—Renewed \$150,000 of both loans, plus capitalized interest and received \$15,700 bonus stock? A.—Yes.

Q.—The Merchants Bank stepping into your shoes as to the balance of the loan! that would be \$200,000? A.—Yes.

Q.—And taking over the securities? A.—Yes.

Q.—Not of course interfering with your ownership of the bonus stock? A.—No. In March of the following year, 1904, we took from the Merchants Bank,—we paid the Merchants Bank—stepped into their shoes again and became the lender—lent again \$200,000 to the Shawinigan Company, and as the Merchants Bank was entitled to

ten per cent. stock bonus, in the same way as we had got ten per cent. upon the \$157,000. We got \$17,500—they were entitled to \$20,000, on the \$200,000, but as the term had not run we made a stipulation that they should turn over to us \$16,500 out of the \$20,000; so that that gave us another \$16,500 of stock out of the \$20,000.

Q.—What became of the balance? A.—The Merchants Bank kept it.

Q.—The Merchants Bank kept that? A.—Yes, certainly.

Q.—You did not get the \$20,000? A.—No. The \$200,000 was divided between the Merchants Bank and ourselves.

Q.—You got part? A.—Yes.

Q.—\$16,500? A.—Yes. They got three thousand five, and we kept sixteen thousand five hundred.

MR. LANGMUIR: Q.—Did you require any money or overdraw your account in order to make that \$356,000 investment? A.—Not at the time we made it. At the time we made it, we were in comfortable funds, but when the close of that year came in 1903, we were at that time quite—

Q.—In funds? A.—No, in the beginning of the year we were in funds, but at the close of the year we were not in funds, and that is why we suggested to the Merchants Bank that it would be a convenience to us if they took it off our hands, and they took it off our hands, and in March when we were in funds again we took it back.

Q.—I will have to ask you about the dealing you had later on, but in the meantime I want to clear up the question of the bonus stock. What other bonus stock did you get? A.—In connection with the Shawinigan?

Q.—Yes? A.—That is everything I think.

Q.—You have given me \$125,000? A.—Yes.

Q.—\$15,000 on the second loan, then another \$16,500? A.—And \$15,700. The amounts we have received are \$125,000, \$15,000 and \$17,500.

Q.—Yes, I have that? A.—And \$16,500 out of the \$20,000. I think that totals it up.

Q.—That makes you see \$32,200, and I think your books show \$35,700? A.—We will see. I do not think so. I think you will find they are all right.

Q.—Page 415 of this book? A.—The amount that we have is \$172,200.

Q.—Let me look at that. That is because you had parted with some—

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thing? A.—That is just the \$3,500 the Merchants got.

Q.—That is just a cross entry? A.—That is all there is about that.

Q.—\$62,500, \$31,300, \$31,200, which makes the \$125,000. Then \$15,000, then \$35,700, of which \$3,500 is taken off— A.—That includes \$15,700 of the \$20,000, out of which the Merchants Bank had to get their \$3,500, which is mentioned here, leaving that exactly as I said.

Q.—That is what I did not understand. It is quite plain when you explain it of course. What is this book? A.—Bond and stock ledger.

Q.—You appear as the transaction is recorded in this book, at page 415, to have got the whole of the \$20,000 from the Merchants Bank? A.—The stock was not given till the loan was paid off, and as we at that time owned it we got the whole of it, and we had to transfer the \$3,500 to the Merchants Bank.

Q.—That left you with a holding of \$172,200 instead of \$175,500, which you would have had if you had retained the whole of the \$20,000? A.—Exactly.

Q.—Have you explained to us in what you have said with regard to the scarcity of money at the time of the transaction with the Merchants Bank, have you stated to us all there is to be said with regard to that transaction? What was the reason why you stepped into the position of the Merchants Bank? A.—At the end?

Q.—Yes. A.—When we made this loan to the Shawinigan Company—

Q.—Which loan—because you made two? A.—Both, all these loans. They were arranged to be due in November, 1903, and we had been assured by that company in the strongest terms, that we could rely upon that money being paid off at that time, and we had told them—I remember telling them very positively that we could not make this loan unless we could absolutely rely on getting this money. If the Commissioners will remember, at that time it was just the time of the hardest crisis, the money crisis, the money tightness, and the Shawinigan Company to our surprise came to us and just said that they had calculated on furnishing this money by selling their bonds, and that the bond market on account of the tightness of the money was very poor, and that it would be almost impossible for them to sell their bonds at that particular time, and that therefore they could not pay us, and they asked for a renewal. We wrote them, I have a copy of the letter here, insisting

upon it, that we were sorry to press them, but that we would have to. Under date November 4th, 1903, I wrote the Secretary a letter, I do not know whether it is worth while reading it.

Q.—Let me see it and I will say whether I think it is necessary. (Letter handed to Counsel). I think that is important. It is dated 4th November, 1903, to Mr. Eldrid, the Treasurer of the Company. "I am exceedingly sorry to inconvenience you in any way, but I am under the painful necessity of saying that we really must press for the payment of the notes of the Shawinigan Power Company of November last (reads letter)." That was because you really needed the money? A.—Exactly.

Q.—You could not afford to let the money stand out? A.—We did not want to be overdrawn at the end of the year.

Q.—That of course is obvious? A.—Yes (Letter Exhibit 597).

Q.—And you had calculated your position so closely when you made these loans that it was of the essence of the thing, it was vital that you should get the money when it was due? A.—It was extremely important.

Q.—Would you not say it was vital? A.—Vital is a very strong word.

Q.—I meant it to be a strong word. I meant it to be just as strong as your letter? A.—I meant everything that I said in the letter.

Q.—It was vital? A.—Vital to what? It is a very strong and very indefinite word.

Q.—It is not indefinite at all? A.—Vital to the company?

Q.—Yes? A.—To the company's life?

Q.—No, the Company's position, the Company's standard, the Company's position in the eye of the Department and in the eyes of the world? A.—It was very important to this extent, that if they did not pay that off we would probably be overdrawn at the end of the year. That is all there is to it.

Q.—Overdrawn to that extent? A.—I forget whether we were absolutely overdrawn or not. I would like to see the book at the end of the year.

Q.—It is important enough you should fortify yourself by reference to the return. There is the return for 1903? A.—We had cash in banks at the end of 1903 amounting to \$145,000, so that we would have been overdrawn, not to the amount of

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\$200,000, but we would have been overdrawn.

Q.—Overdrawn to the extent of the difference between the \$200,000 and that? A.—Yes.

Q.—Now, in respect of your reports or your return to the Government as an insurance company, to what degree do you deem it to be of importance that you should not show an overdrawn bank account? What degree of importance do you attach to showing a bank account with something in it? A.—It is a matter of sentiment and appearances only.

Q.—Then do you attach any importance to it? A.—Oh yes, sentimental importance.

Q.—And you say it is a matter of appearances too? A.—Yes, because agents of other companies might say, "Why, that company is overdrawn," or something of that kind.

Q.—Is it desirable in your view of things that it should not appear that you have made investments in advance of having funds to make them with? A.—No, we are not very particular about that. With educated informed people we do not care who knows about it.

Q.—I do not want to draw down any observation about the department, but I suppose they are educated there? A.—So far as the department is concerned, we do not care a snap of the finger whether we are overdrawn or not overdrawn.

Q.—As far as the shareholders are concerned? A.—As far as the shareholders are concerned we do not care a snap of the fingers.

Q.—Whom do you care about? A.—The general public who do not know enough and are not posted enough.

Q.—The possible insuring public? A.—Perhaps so—the general public.

Q.—The general public whose relations towards you you desire to be of the best possible description? A.—Yes.

Q.—Let me approach it from another standpoint, or let me ask you to approach it from another standpoint. Is it fair to say that you would not like to disclose such a large investment as this at the end of the year with an overdrawn bank account, such a large investment as this in an enterprise of this kind? A.—Absolutely no foundation for that.

Q.—No foundation for that at all? A.—Absolutely none. The amount of the investment was not considered by us in any way excessive, and there was not a factor to be considered, ex-

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cept we did not wish to show an overdrawn bank account at the end of the year for the sake of the general public who would not know the facts, and that is all.

Q.—Then at the time of financial stringency such as that was, you would not think it desirable or you would not think it undesirable that the public should be aware of your having so much money locked in an enterprise of this kind? A.—Not the very slightest.

Q.—The work was not then completed. The works were still going on? A.—The Shawinigan Company was in such a condition that its bonds were looked upon by everybody as excellent security.

Q.—The process of completion was not at an end. The works were still going on? A.—The extensions were going on, but the works were in full running order. They were in the same position as a large factory building a wing. But that is not like a new thing, and they had if I remember right, an actual engagement. There is no doubt—I think I am positive on that point—that the works had gone so far that a big banking company in New York had agreed to buy all their bonds.

Q. But you had these bonds that you told us of? A.—We had the temporary bonds which were to be paid off out of the sale to this banking firm, Farson, Leach & Company. I may say we had nothing to be ashamed of in the investment, not the slightest, either in its amount or character.

Q.—I am not suggesting you are ashamed of it, I am trying to account for your urgency to have it paid off. Were you parties to the arrangement made with the Merchant's Bank? A.—Yes.

Q.—You assisted in bringing about that arrangement? A.—Yes.

Q.—And was it understood by the Merchant's Bank, that in March thereafter you would step back again and take the security over? A.—It was understood that if they wished us to do so, it was optional on their part.

Q.—That is, if the Merchants Bank wished it? A.—Yes, we would repurchase those securities.

Q.—Was a time fixed? Is there a contract about it? A.—Yes—not a contract, but correspondence. We agreed that if the Shawinigan Company should not pay the amount of their note at maturity, that we

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authorize you to hand over—no, no, that is not it—“If the Shawinigan Company shall pay the amount of the said note at maturity, we authorize you to hand over the said above mentioned bonds to them, but if the said note be not paid at maturity, the said bonds are to be returned to us on our paying the amount of the loan and interest.

Q.—Is that the only letter on the subject, or are there a series of letters? A.—No, I have told you the whole thing.

MR. LANGMUIR: Q.—You created a liability by that letter? A.—Yes.

MR. SHEPLEY: Q.—You intended to become, as you did become, responsible to the bank for the payment of the advances? A.—Yes. The bank was made sure they would get their money.

Q.—Made sure by you? A.—Yes.

Q.—And in assuming your position as you say they did, to the extent of \$200,000, it was quite understood that, if anything happened, that the Shawinigan Company did not pay when the note became due, that you should step back where you had been before? A.—Yes.

Q.—What other document is that you have? A.—Here is a letter which was given to us dated 19th November, 1903, from the Shawinigan Company, addressed to the Sun Life Assurance Company. (Reads letter.)

Q.—We will put that together; is there any other document necessary to complete that? A.—No, I think not, except the statement—

Q.—No other document? A.—No, that is practically everything. (Document Exhibit 598.)

Q.—That evidences the arrangement that was made? A.—Yes.

Q.—Then practically the arrangement was that, temporarily at least, or only temporarily, unless the Shawinigan Company was able to pay, and nobody expected it would be— A.—I beg pardon, we fully expected—we did not look for any further trouble—

Q.—Did you think they would be better off in March than in November? A.—Certainly. It was just a question of the money market. They had an arrangement with those people in New York to take up the bonds.

Q.—At all events the arrangement was practically then as evidenced by the documents, that the bank would come to your assistance and carry part of this loan from November till March.

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Is that not a fair way of putting it? The Shawinigan Company having failed to carry out its agreement, to pay you the money on the 1st of November, the bank stepped in and came to your assistance, and made the \$200,000 loan till March? A.—Well, it assumed that. I would not put it in the way of a loan, because it was not a loan to us in any shape or form.

Q.—You had loaned the Shawinigan Company? A.—They assumed that much of the loan of the Shawinigan Company.

Q.—They assisted you to carry that loan till March? A.—I do not like that way of putting it.

Q.—Is that really not the arrangement in any fair view of it? You were aware, of course, that the bank made you the direct debtor for the money? A.—No, it did not.

Q.—You are not aware of it? A.—No.

Q.—If you are told that, that surprises you? A.—It would surprise me.

Q.—That I am told is what was done? A.—It is a great surprise to me, because we were not their debtors.

Q.—Before we meet again, will you satisfy yourself as to the accuracy of that? A.—I will.

Q.—Because I do not want it upon the record unless it is accurate. A.—It would be a surprise to me if the bank did it, because if they did it, it was wrong, because the Shawinigan Company were their debtors and not us. We did nothing more than guaranteeing that if the Shawinigan didn't pay we would.

Q.—And take back the security? A.—Yes.

Q.—You had made a loan in respect of which you had certain securities? A.—Yes.

Q.—And you handed over a certain portion of your security to the bank, and it advanced you—A.—No, it advanced the Shawinigan Company and—

Q.—Do you say the bank cheque was not directly to you? Did it go through the form at all of passing through the Shawinigan Company? A.—I do not know.

Q.—Find out about that, and find out what the dealing was between you and the bank with regard to that? A.—May I see the letter again?

Q.—That will not be affected by the terms of the letter, I know what it

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says? A.—“Have agreed to advance two hundred thousand dollars to the Shawinigan Company.”

Q.—I understand that, but I want to find out what was actually done. Then we will see what the reality of the transaction was, no matter what garment of form it may have been wrapped in? A.—Whether it was put to our credit, or put through the Shawinigan Company, it was a payment to the Shawinigan Company.

Q.—If you will ascertain just what was done by the bank and yourself, then we will pierce the shell of the document, if we know what the real transaction was? A.—But the real transaction unquestionably was simply this; that the bank assumed \$200,000, of this amount which was due by the Shawinigan Company, the Shawinigan Company being their debtors to that amount—

Q.—They not only assumed it, but they paid it. You got the money? A.—Yes. While they paid, if you choose, they paid this much of the debt of the Shawinigan Company's indebtedness, and the Shawinigan Company became their debtor to the extent of \$200,000

Q.—Is the Merchants Bank your ordinary banker? A.—Yes.

Q.—Then it was your ordinary banker who carried the transaction? A.—Yes.

MR. LANGMUIR:—Q.—Would you have been a party to that method of doing it had the 31st December not been so close at hand? A.—No, we would not have considered it worth while.

Q.—You would have kept it in your books? A.—If the 31st December had not been near at hand, we would have kept the transaction on our books, and been perfectly satisfied to do so.

MR. SHEPLEY:—Q.—Your books show a credit, not to the Shawinigan Company but to the Merchants Bank of Canada, “By cash \$200,000.” Is this the same thing, August 17th by cash \$200,000? Is that it? A.—No connection with it.

Q.—What is that? A.—That is a loan, if I remember right, that we borrowed from the Merchants Bank.

Q.—In 1903? A.—Yes, no connection with it whatever.

Q.—Was that money borrowed to make this loan to the Shawinigan Company? A.—No.

Q.—Satisfy yourself of that before we meet again? A.—The loan was made long before that.

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Q.—You say this has nothing to do with it? A.—I am practically positive it has no connection in the world with it. You charged the Merchants Bank on December 31st, 1903, with \$200,000? I wish you would satisfy yourself in regard to that? A.—I can.

Q.—That is at page 98? The credit entry is the 17th August, 1903, by cash \$200,000, and the debit entry on the 31st December to cash \$200,000? A.—I will find out about that.

Q.—Then there is another entry—please find out about that? September 28th, 1903, \$50,000, and the debit on the 6th December, 1903, \$50,000. Find out what those are? A.—Yes. In the year 1903, on account of the Shawinigan Company and some other large borrowers who were indebted to us, failing to pay up, just on account of the hardness of the times, take the Shawinigan Company, the security was first class. We could have sued them, but it would have done no good, but through their failing to meet their obligation, while we had to meet obligations we had incurred, we had to borrow from the bank in the middle of the year.

Q.—You will ascertain about that accurately before we meet again? A.—Yes.

Q.—Proceeding with the transaction which was in the following March, when the loan came due did you have any correspondence with the Bank or with the Shawinigan Company? A.—Beg pardon.

Q.—When the loan became due in March, did you have any correspondence with the Bank and with the Shawinigan Company about it? A.—On March first we do not seem to have had any correspondence with the Bank, but we have a letter from the Bank acknowledging payment by us of \$206,115 of the note of the Shawinigan Company, and discharging us from any obligation in connection with it, and transferring the securities to us. I would like to state right here that the fact that the bank was the real owner of the note is conclusively true, it seems to me by the fact that they got their stock pro rata just as the—

Q.—That is quite consistent with what I am urging that the bank was assisting you to carry it, and got paid out of your bonus stock? A.—If by assisting you simply mean they bought under a certain guarantee from us some of our securities which they held

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for several months, not in the way of lending to us, but owning these things outright for the time, we agree.

Q.—You did not like to part with the securities? A.—No.

Q.—You liked them? A.—Yes

Q.—For reasons which you have given it was desirable you should not be overdrawn? A.—Yes.

Q.—And the Bank took over the securities, carried the loan till March, and then handed back all but \$3,500, of bonus stock, and got paid by you? A.—Yes.—well they relinquished their claims to all except that.

Q.—There was no independent consideration in bonus stock moving from the Shawinigan Company—A.—The Shawinigan Company had to pay \$20,000 in bonus stock.

Q.—To you? A.—To whoever had been carrying that thing along.

Q.—That would have been yourself if you had been carrying it? A.—Precisely.

Q.—As the bank carried it a proportion of the time, they got \$3,500? A.—Exactly.

Q.—In the correspondence in November and the letter you have now given me, there was not a word said about the bonus stock. Is there anything between you and the bank about that? A.—Yes.

Q.—This is from you to the manager of the Bank on the 31st December, 1903. That was after the transaction was put through. That corresponds very closely with your entry in the ledger about the \$200,000? A.—I would not like to be positive without looking at the book.

Q.—That is followed by the entry of \$200,000 of debit, 31st December? A.—I cannot say without looking up. I would need to look up the entries to see exactly what it was.

Q.—Is this a typographical error where it says stock bonus of \$10,000 instead of \$20,000? A.—That must be a typographical error.

Q.—I read that letter. This is a letter of the 30th December from Mr. Macaulay to Mr. Ramsay, the Manager of the Merchants Bank, and this makes manifest what Mr. Macaulay has been telling us and the reasons for it. (Reads letter). A.—Might I emphasize there "that it was intended you should get a note of the Shawinigan Company," which I think bears out what I am saying.

Q.—Don't you think I emphasized it enough when I read it? A.—Well, it might not have been understood.

Q.—Now there must be a letter from

him of the 29th December, which I would like to see, because this says "I thank you for your favor of December 29th." Perhaps you had better make a clean delivery from your pockets now and we will find all this correspondence at once. A.—Here is a letter and here is a copy of the agreement—the note.

Q.—Have you found Mr. Ramsay's letter to you of 29th December? A.—I have nothing else.

Q.—Find that for me, please, between now and the time we meet again. A.—I have nothing else except this paper, which I think is of no importance.

Q.—I will arrange these letters in chronological order and we will make them one exhibit, with the understanding that the other letters, when they come, will be put in their proper place. (Exhibit 598). A.—There is no misunderstanding, I think we will probably agree what it is.

Q.—I do not think we will have the slightest misunderstanding about anything. I do not intend that we shall. Make a note of the letter from Mr. Ramsay to you of the 29th December. A.—That has been done.

Q.—This loan had to run in the bank 6 months, that is until the 19th May. A.—I think so.

Q.—Your letter said so. A.—Yes, that is my impression.

Q.—And the note which you have given me. A.—I will look at it and then I can answer positively. That is my recollection; but I would like to be positive.

Q.—The note bears date the 19th November, 1903, and is payable 6 months after date for \$200,000. A.—That is right.

Q.—Payable to your order and endorsed by you to the Merchants Bank? A.—Yes.

Q.—You endorsed the note? A.—Yes.

Q.—That did not come due until the 19th or rather the 22nd May. Now you paid it off on the 1st March. A.—Yes.

Q.—Why was that? A.—I don't remember really how it happened to be done. I cannot tell you. If there is anything in the correspondence?

Q.—I will try to help you out. On the 1st March Mr. Ramsay writes to you, "We acknowledge to have received pre-payment from you to-day of a note for \$200,000 and interest, making together \$206,115.10, of the Shawinigan Water and Power Company, dated 19th November, and pay-

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able 6 months thereafter to the order of your company. You are consequently further discharged by us with respect to your relative undertaking of 28th December last, and the bonds referred to therein are now at your disposal." That gives you another document to look for, your undertaking of the 28th December. "Yours of the 28th" is not here, unless this is it. There is no date to this. A.—I can look it up and see if there is anything. I am not positive, but my impression is, as you will notice it says "pre-payment." We did not pay because it was not paid by the maker. We paid some months before it was due and my impression is that by that time we were in funds and we thought this was as good an investment as we could get and we reinstated ourselves so as to get as large a proportion as possible. I won't be positive, but I think that is it.

Q.—Do not let us get that down if it is wrong, because apparently on the 1st March, 1904, you borrowed the \$200,000 from the Merchants Bank at 5 per cent. A.—Even then we would make the bonus.

Q.—It is standing out on the loan at 6 per cent. so you would make 1 per cent. on that. A.—And the bonus.

Q.—Apparently in March, not being bound to do so until May, you stepped in and paid the note, borrowing \$200,000 from the Bank for the purpose of doing so. A.—Yes.

Q.—You got back the note, got back the stock all but the \$3,500, although the Bank was to carry it for that \$3,500 until the following May. A.—No sir.

Q.—Why? A.—Because they would not have got as large an amount.

Q.—That depends on the terms of the letter which we have not got. A.—I think the letter you read shows that. My letter states, does it not? It says, in proportion to the terms.

Q.—We will see whether we can eke it out from this. I don't think we can. A.—I did not know that this matter was coming up.

Q.—Of course not. I am not blaming you at all. "A fair arrangement, therefore, I think is to allot to you such a proportion of the stock bonus as corresponds with the proportion which the terms between December 28th and the date on which we may repurchase the note bears to 6 months." A.—That is it, exactly, and the sooner we would repurchase that the more bonus stock we would get.

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Q.—The less bonus stock you would have to surrender to the bank. A.—Exactly. Therefore it was a good business arrangement for us to repurchase that as quickly as possible.

Q.—I think I understand that now, but I want the rest of the documents, of course. A.—If I had known you wanted them I could have had them hunted up at noon.

Q.—You will do that, please, between now and the time we assemble again. Then what was the next transaction you had in Shawinigan? A.—They paid off those loans on the following dates: August 3rd, 1904, \$1,600. Another payment on the same date, \$249,900. September 30th, \$5,550. Another payment on the same date, \$99,450. Totalling up the whole amount, I think.

Q.—\$356,500. A.—That is the correct amount.

Q.—That is the total amount with the capitalized interest. That was paid off on those dates? A.—Yes.

Q.—How did they find the money? A.—It is very hard for me to remember, but I think they got the money from the sale of their bonds. I am not absolutely certain.

Q.—You seem to have got some bonds from them or from somebody in August and September? A.—If I appear to be rusty on these things I can only apologize. I cannot carry them all in my mind.

Q.—Nobody will expect that. So long as you have them in your vaults it is better than having them in your mind. A.—I see how it is. On September 29th we took over \$411,000 of their bonds at 85 and interest and in that way paid off the loan by becoming owners of the bonds.

Q.—My record is in two sums; one in August of \$294,000, the other in September of \$117,000. That makes the \$411,000 you are speaking of. Is that right? A.—Yes.

Q.—What bonds were those? Were those what you were holding as security? A.—No, I think not. They were the permanent bonds.

Q.—In other words you purchased the permanent bonds to the face value of \$411,000? A.—That is right.

Q.—Becoming absolute owners of them? A.—That is right.

Q.—And the purchase money went *pro tanto* in discharge of this \$356,500? A.—Correct.

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MR. LANGMUIR: Did you purchase these bonds from the New York house or direct from the Shawinigan?

A.—We purchased them direct from the company, and then the New York house had an option to sell these bonds and we sold them on May 18th, 1905, to that New York house at 90 and interest and made five per cent. profit on the whole thing, over and above the stock and everything.

MR. SHEPLEY: Q.—There was no bonus stock on that transaction? A.—No.

Q.—You have told me of all the bonus stock you ever had? A.—Yes.

Q.—Then you got in connection with these loans and you never got any in connection with your purchase? A.—No.

Q.—That \$411,000, when you came to purchase these bonds, was that all you had invested? Did that cover your original investment of \$100,000? A.—The original investment was redeemed in cash of \$100,000. We got that paid off at 105.

Q.—You told me that, I think. That was paid, when? A.—That was paid off August 2nd, 1904, at 105 and interest.

Q.—That would be the same time that you were paid off your loan, wouldn't it? A.—Well, a little before. We were paid off the loan in August and September, and this was the 2nd August. It was around the same time but a little earlier.

Q.—Don't you think that probably the money you got for these bonds came out of what you paid for the new issue of bonds? A.—No, because what we got for a new issue of bonds was needed to pay off what they owed us on loans.

Q.—Yes, you are quite right about that. I did not observe that for the moment. When you said at "85 and interest," what did you mean by interest? A.—That is the accrued interest on the bonds.

Q.—You were to pay 85 per cent. and get the interest? A.—Eighty-five and the portion of the accrued interest, because the coupons would be attached.

Q.—You were to apportion the interest from the last gale day up to the time you purchased and they were to get that part of it? A.—From the last what day?

Q.—The gale day, I called it. The last interest day. A.—Yes, from the

last interest day, up to the date of purchase. We obtained that and turned round and sold them on the same terms, only the price was 90.

Q.—What did you get on the \$100,000? A.—105 and interest.

Q.—And when you sold the \$411,000 you got how much? A.—90 and interest.

Q.—The \$411,000, of course, were part of the issue of five millions under the third trust deed? A.—That is my recollection.

Q.—Of course no such sum was possible to issue under either of the others. Then, one other matter about the Shawinigan Power Company. I want you to show us, so that we will have it on the record, the way in which you made your entries of this bonus stock. On page 415 (stock and bond ledger) you have these entries: "March 27th, 1902, to cash, \$62,500." Under the heading "Par Value." "Balance \$62,500." And then under the heading "Account value" "Debit \$1, and a balance of \$1." That is, you put down the par value, and you put it down as having a value in account of \$1. A.—Yes, that is right. The \$1 is put in simply for the purpose of keeping track of it. If there was no value we might lose sight of it.

Q.—On the same date two sums of \$31,300 and \$31,200, making the total balance \$125,000, and that carried out at two sums of \$1 each and a balance of \$3? A.—Correct.

Q.—On May 21st, \$15,000 par value; balance \$140,000. Account value \$1. Balance in account value \$4. On 31st December \$35,700 par value; balance \$175,700. Account value, debit \$1; account value, balance \$5. March 10th, 1904, a credit by cash \$3,500 under the heading par value, reducing the balance to \$172,200. Under Account value \$1 in the credit column, reducing the balance to \$4. So that this holding of \$172,200 of bonus stock is carried in an account value at \$4? A.—Yes.

Q.—And I think did not figure in your returns to the Government? A.—For reasons—

Q.—For reasons which were discussed pretty fully between you and the Department? A.—It did not figure until 1905, but it was sold in 1905.

Q.—When sold in 1905 it came in as a realized investment? A.—Yes. I may say that we sold that and got

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19³/₄, simply for the reason I mentioned, that we thought it desirable on some of these things. Whereas if we had held on to it we would have sold it at 37. It is another illustration that it is not wise to sell these things fast, but we thought we would show that these things had some value by selling some of them.

Q.—And if it had gone below par there you were? A.—Yes, but when it comes to dealing with public utility things like traction and public light companies, the chance of ever going down is very slim.

Q.—Now, had you yourself, personally, or had any other director to your knowledge, or had any firm or corporation in which you or any of your co-directors were interested, any interest in the Shawinigan Company's bonds or stocks other than what we have been discussing here? A.—I certainly have not a dollar; the company certainly has not had a dollar of interest in it apart from what I have mentioned; and so far as I know none of our directors have, although I say that with a little reservation because I am not certain that one of our directors has not had something to do with it, but if so it cannot be very large.

Q.—You yourself, personally, have not? A.—Not a cent, and never did.

Q.—And were you not either solely or jointly with others interested in any of the bonds or stocks? A.—In no shape, manner or form at no time.

Q.—And you do not know that any of your directors have, with the possible exception of one? A.—No. And that director, if there is anything, it is only as a side issue. I only happened to discover accidentally that he has anything to do with it, or at least to think that he has.

Q.—Are you on terms to ask him for the information, to be given to me and not used if not material? A.—Yes.

Q.—We will not mention his name if it is not necessary? A.—I am certain that no director has any interest of any size in the company. The President tells me I can say positively he has not and never did have. I knew that. I may say that it is only to-day that I heard this thing that made me think that one of our directors possibly had. This morning I would have said positively, no, but from a little thing I heard at noon I think it is possible one of our directors did have. The only foundation for that remark is that at lunch hour one of our directors showed me

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a statement and said, "The Shawinigan is doing splendidly, look at it." From that I would infer that possibly he has. Beyond that I do not know anything.

Q.—Then I will make an exhibit of certain correspondence between yourself and the Shawinigan Company, and there is something from the National Trust Company as well with reference to the Shawinigan Power Company as well. The letters commencing on the 28th October, 1902, and running down to 19th November, 1903. They are arranged chronologically and I put that in as an independent exhibit (No. 599)? A.—I found out about the amendment to the charter. The company has in the meantime had its charter amended so that it is now legally authorized to issue bonds to the amount of 5 million dollars instead of three-quarters of the capital stock.

Q.—You did not get a reference to the statute? A.—It was promised to be given to me but it has not come yet.

Q.—Perhaps you will have it sent to me when you get it, so that I can have it and look it up before we come here again? A.—Yes. The director that I spoke of happens to be in the room. I did not know it. He sends word to me that if he is the director I am thinking about he has had no interest in it at all, in no shape, manner or form. He is the director I was thinking about, so that now I can say positively that no director has had any interest to the best of my knowledge and belief.

Q.—I do not think I will keep these papers now; there is first something in the nature of a prospectus, "the Shawinigan Water and Power Company, its property and plant." Then there is the charter; the deed of trust relating to the million and a half of bonds; the deed of trust relating to the three millions of bonds; the deed of trust relating to the 5 millions of bonds. Those were given to me in the docket, as Mr. Macaulay calls it, and I want the docket marked but I will return it to him now. (Exhibit 600). Mr. Macaulay of course will understand that that is to be furnished to us whenever we want it. Then you will bear in mind, Mr. Macaulay, the hunting up of the additional correspondence? A.—Yes.

Q.—Now, your Honors, the next subject that I take up will be lengthy, and as we separate to-day and some of the persons concerned in the in-

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quiry have a distance to go, I do not offer your Honors any further evidence at present? A.—I have just received this copy of the amendment.

Q.—I will put that in the docket Exhibit 600. This is "4 Ed. VII., Cap. 81" and the Section is "Section 2" which gives a new section 10. A Quebec Statute, of course? A.—I would like to interject, and we have been talking so much about the Shawinigan Company, the net result of our dealings with the Shawinigan Company is that over and above full interest we have made a profit of about \$42,500 besides getting everything paid off and full interest.

MR. KENT: No one is complaining of that, I suppose, Mr. Macaulay?

JUDGE MACTAVISH: No, but that is a good statement to make just at the adjournment. The adjournment will be until next Tuesday morning, at an early hour, Mr. Shepley?

MR. SHEPLEY: Shall we say 12 o'clock, as we commenced this week at twelve? I do not think that will do otherwise than facilitate; I think we will make more speed if we have a little more time to prepare.

JUDGE MACTAVISH: Tuesday morning, then at 12 o'clock.

(At 3.30 on Wednesday, 17th October, 1906, adjourned to Tuesday, 23rd October, at 12 noon.)

EIGHTY-NINTH DAY.

MORNING SESSION.

Montreal, October 23rd, 1906.

THE SUN LIFE ASSURANCE COMPANY.—Continued.

Present:—Commissioners Messrs. Langmuir and Kent.

MR. LANGMUIR: As the train on which Judge MacTavish is coming from Ottawa is late, I think it would be better to adjourn to two o'clock, if that will suit the convenience of those present. We can accomplish very little between now and the hour of adjournment. What do you say, Mr. Shepley?

MR. SHEPLEY: It seems to me that, as everybody of course concerned in the inquiry is busy, it would be a pity to wait here. We might wait only five minutes and we might wait half or three-quarters of an hour. It is now a quarter past twelve and it is so uncertain how much longer it

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will be before Judge MacTavish arrives that I think it will be prudent to adjourn now.

MR. LANGMUIR: What does Mr. Kent say?

MR. KENT: I think that will be the better way.

MR. GEARY: I think for the reasons suggested by Mr. Shepley that the better course would be to adjourn now.

(The Commission then adjourned till two o'clock.)

AFTERNOON SESSION.

T. B. MACAULAY, Examination resumed by

MR. SHEPLEY: Q.—There were two or three little matters that you were good enough to say you would look up in the interim. One of them—and I thought you were going to get me a statement upon that—was that Beaudry interest? A.—Yes.

Q.—Is that in order now? If it is we will take it up now, and if it is not we will go on with something else? A.—We can get that now.

Q.—It is ready to be given to us? A.—I have not looked it up myself, but it can be turned up at once. Here it is.

Q.—What book is this? A.—This is the schedule of mortgages.

Q.—What does this indicate? A.—This indicates that on the 31st December, 1901, there was \$25,960.97 of interest due—past due—upon the Beaudry mortgage, and \$6,672.19 of accrued interest.

Q.—What difference do you make between interest due and interest accrued? A.—One is past due and one is interest due but not yet overdue.

Q.—You mean accruing interest? A.—Yes.

Q.—That is taken from a book called schedule of mortgages? A.—Yes.

Q.—Of the Sun Life Assurance Company? A.—Yes.

Q.—Have you ascertained at what date the foreclosure took place? Where did this book come from before you brought it in? A.—It is furnished us by the Insurance Department but kept by us, and furnished to them whenever they want it.

Q.—And it is supposed to be kept written up in all its details from time to time? A.—Yes.

Q.—The book itself being kept by the company but furnished by the department? A.—Yes.

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Q.—What about the date of foreclosure? Give us the exact date of that, and that will dovetail itself in with the entries which we have been curious about. The date of this is the 18th March, 1902, and this seems to be a deed from the sheriff of the district in the foreclosure suit? Was it to a trustee for the company or to the company itself? A.—To the company itself.

Q.—To the Sun Life Assurance Company of Canada, the above named plaintiffs? A.—Yes.

Q.—Now, we have the date of that. Then it was of course subsequent to that that you took the money which you had made upon the sale of certain other securities and transferred it to the credit of this interest? A.—We transferred it. We transferred it not to the credit of that mortgage but to the general credit, just to make up for what was dropped out. We did not write it in for instance as being received.

Q.—I know you did not write it in this book? A.—No.

Q.—But what you did was to put it on your own book as being interest received in respect of this foreclosed mortgage? A.—Precisely. May I fill that in. Our reasoning is that before you begin to talk of profits you must first of all provide for all losses. When we speak of profits in our company, the amount that is returned is always net profits, and there is no distinction drawn between different classes of securities. It is not profits upon the total investments of the company, and we considered that we must first of all make good the money actually coming to us which would be a loss, before we thought of making profit.

Q.—That was fully explained to us the other day? A.—Yes.

Q.—So that we may go over this without the observations I made upon it then, that that is always subject to this: that in the ordinary system of book-keeping which you adopted before you adopted this system, you showed in respect of every investment whether it did make a loss or a profit, is that not so? A.—I do not grasp your point at all.

Q.—Take any investment, investment A or investment B or investment C, supposing you made a loss on investment A, until you adopted this method you would show a loss on that individual investment and profits on the others: then the loss on the one deducted from the profits on the other would give you your net pro-

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fit? A.—I do not think there has been any change in our system. It has been the same always.

Q.—It does not appear you have ever done anything of that sort until you commenced to keep this account?

A.—Before that we had very few profits, because we did not begin to make profits till—

Q.—And when you made losses you showed your losses? A.—Yes.

Q.—You showed your losses in respect of individual investments? A.—Yes.

Q.—And showed your profits in respect to individual investments? A.—Yes, but the system has been the same. There has been no change.

Q.—It was not until the items we were discussing in connection with these sales of investments were reached in your accounts that you ever adopted that system? A.—I think you are wrong on that point.

Q.—I have not found it? A.—I have no recollection of any change being made in our system at all.

Q.—You did not carry the amount in this case to the credit of the Beaudry interest, in your books, into this book kept at the instance of the government? A.—No.

Q.—Why not? A.—Simply because to do so would have made out that we had received it from Beaudry, and we had not.

Q.—And the book in which you entered it, which you keep of your own, would indicate it was money received on the Beaudry Mortgage? A.—No.

Q.—Oh yes? A.—Beg pardon. The book indicated it was money we had received from the profits on sales of securities, which had been applied to make good the loss on the Beaudry interest.

Q.—We will leave it that way. We have been over it before, and I do not want to waste time over it. You see that the method you have adopted makes it possible for you, when you have what you call a windfall or a haul by virtue of an advantageous sale of certain securities, it makes it possible for you to take sums of money out of that, and distribute them all about wherever you have made disadvantageous investments? A.—Yes, and properly so.

Q.—I do not say properly or improperly, but that is possible? A.—Yes. I would like to read in this connection the statement given by us in connection with our last government returns, because I think that puts the matter so clearly—

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Q.—That was after the question was raised by the Government? A.—No, I do not think the question has ever been raised by the government, that is in connection with interest.

Q.—When was that statement prepared? A.—In February, 1906, for the year ending December 31st, 1905.

Q.—And that was after you had made your return to the government, it was supplemental, was it not? A.—Yes, but before there had been any visit, or anything of that kind. It was entirely voluntary on our part.

Q.—Perhaps you were aware then that the Commission had been appointed? A.—I do not think we were. I am not sure. I cannot say positively on that point.

Q. I do not say it had. It may have been only post hoc and not prompter hoc? A.—At any rate I would like to read that statement.

Q.—I think you have already had it put in? A.—Of course we have to go a great deal by what the newspapers say, and they talk as if we had never found such a thing, and they never published that statement, and I think it will be made clear.

Q.—If you like to furnish it to the newspapers, all right, but I do not like to waste time here, but I have gone as far as you asked me to go, by letting it be put on the record as an exhibit, so that it is before the Commission for whatever advantage or disadvantage it may be. Then you were going to look further into the question of that deal between yourselves and the Merchant's Bank in respect of the Shawinigan Water Power Company. You found certain further correspondence and that you have been good enough to give me, and I have it in my hands here. That I will make an exhibit. (Exhibit 601.) Did you ascertain whether or not in the books of the Merchant's Bank the loan had been made to you? A.—I interviewed the Merchant's Bank people and they told me that their books showed that they had discounted a note of the Shawinigan Company endorsed by the Sun Life Company, and that the proceeds of that had been put to our credit, but whether it was a sale or what it was, their books did not show.

Q.—The proceeds of the discount had been put to your credit, which would indicate the transaction was with you? A.—Precisely. We do not deny in the least that the transaction was with us, but our claim is that it was a sale from us, and this correspondence I have produced just now makes it clear it was a sale.

Q.—At all events, the sale was characterized by the fact of the discounting of the note in the meantime? A.—Yes, part of it.

Q.—And placing it to your credit? A.—It was the discounting of the Shawinigan Company's note.

Q.—Endorsed by you? A.—Yes.

Q.—And the proceeds put to your credit? A.—Yes, like any sale. As we sold it, it would have to be put to our credit. I would like to correct a little statement I made in that connection from lapse of memory. I said in my previous evidence that the Merchant's Bank were entitled to their proportion of the whole bonus of \$20,000. You remember you thought it was a clerical mistake. It was no clerical mistake. It should be \$10,000, because you will see by that correspondence when they asked us to guarantee we said, "in that case, if we are going to guarantee it, we should want half the bonus stock," and we did get half of it, and they were only entitled to their proportion of the \$10,000, and not of the \$20,000.

Q.—I thought you made it clear the other day? A.—I did not know it myself.

Q.—I see in the notes of evidence you put me right about it? A.—I said the proportion of \$20,000, and I should have said \$10,000. The very fact that we allowed the Merchants to keep \$3,500 as a bonus stock, will show we considered they were the owners of it, because I do not think the Sun Life has the reputation of giving things around unnecessarily.

Q.—I said it might be considered as their remuneration for giving the accommodation? A.—No.

Q.—However, that is just another way of putting it? A.—The president reminds me that we have an absolute arrangement by which we can overdraw our account up to \$400,000 without any stock or anything at all, so that it would be absolutely unnecessary to give any bonus stock.

Q.—That is by virtue of some written contract between you? A.—Yes.

Q.—You will let us see the original of that, and let us have a copy of it? A.—Yes.

Q.—Now, I come to the transactions in which your company has been interested, and which now range themselves under the generic head of Illinois Traction Company. What was the origin? Chronologically what was the first matter in respect of your company which led to the train of circumstances ending in the present

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condition of that matter? A.—I have brought these maps.

Q.—I will have the Commissioners furnished with a copy of these maps, as they will be useful to follow, as we come to the various complex propositions which go to make up the whole (Map exhibit 602). This map indicates the completed geography of these various enterprises? A.—Yes—well not the completed geography, because since this map was made, there were additions—

Q.—Well, practically? A.—Yes.

Q.—Whatever additions there are, we can have designated upon the map? What was the inception of your connection with the Illinois enterprises? A.—On November 4th, 1902, the president and myself made a suggestion to our Board—

Q.—That appears upon the minutes? A.—Yes, I have a copy of it here. The president and myself made a suggestion to our Board.

Q.—Is this the only thing that appears on the minutes? A.—That is all.

Q.—November 4th, 1902, "Inspection of Interurban Roads of Ohio and neighboring States where we are interested in such properties. According to the suggestion of the Vice-president, Mr. Kingman and the Secretary were appointed a committee for this purpose, the details of the arrangement being left to others." Before we go further, what interurban road in Ohio and the neighboring States was the company interested in? A.—A number of them.

Q.—It would be sufficient for my purpose if I got an affirmative answer to this. You were not interested I think in any of the enterprises which now enter into the Illinois Traction Company? A.—No.

Q.—That is you were interested in certain other propositions? A.—Yes.

Q.—But not in those? A.—No.

Q.—And you had not these specifically in your mind at the time this suggestion was made and the minute was passed? A.—Not at all.

Q.—You may expand this word "suggestion," in accordance with the suggestion from the vice-president. Who was the vice-president? A.—Mr. Ewing.

Q.—What was the suggestion, and how did it arise? A.—The first suggestion was from the president and myself, that as we had already a large amount of money invested in traction properties all through those States, which we considered to be about the

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most promising fields for enterprises of that character then in existence, that the Board should appoint a committee to go with myself and visit those that we already had the bonds of and look them over personally and also try to get into touch with the whole situation of interurban railways and electric railways in general throughout the States of Ohio, Indiana, Illinois and Michigan. We represented the matter to the Board in this way; that we were now making very large purchases of bonds, and that the time had come when we should not trust merely to reports of engineers, and others who made reports upon property that we bought, but that we ought to look them over ourselves, and furthermore that we were now making such large purchases that we ought to be able to get into direct touch with a number of the best of these traction companies and so cut these middle men out, and so make for our company and policy holders the profit the middle men would otherwise make. The Directors were very favorably impressed with the idea, and according to the Minute on the suggestion of Mr. Ewing, Vice-President, Mr. Kingman and myself were appointed a committee to go and look over the whole ground and we went.

Q.—Before we go any further, I want to ask you a question or two. Up to that point tell me approximately what you had invested in bonds or enterprises of this sort in the States you mentioned? A.—Without looking at our books, it would be a rather wild guess.

JUDGE MAC TAVISH: Your best recollection? A.—My guess would be somewhere between half a million and a million dollars.

MR. SHEPLEY: Q.—You would not like to be sure it was more than half a million? A.—My estimate would be between these two figures.

MR. LANGMUIR: Q.—In what State? A.—Several in Michigan, a number in Indiana, more in Indiana than in any of the others, and several in Ohio but we had more in Indiana than any other State.

MR. SHEPLEY: And you had none in Illinois? A.—I rather think we had some if the Chicago and Milwaukee.

Q.—Would that be— A.—That was a line which ran from Chicago northwards up towards Milwaukee. It was not then completed but is now completed to Milwaukee.

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Q.—You had some of those? A.—I think we had a couple of thousand—

Q.—Tell me whether any of your directors were personally interested in any of the schemes in which the company's money up to that time had been invested? A.—You mean of those in those States?

Q. Yes? A.—None at all, absolutely none.

Q.—There were no private funds of directors— A.—I misunderstood you, I thought you were asking whether our directors were interested as owners or stockholders.

Q.—No, whether any of your directors had purchased bonds or become interested in these securities personally, the securities in which your company was then interested? A.—I am not very sure. I think not, but perhaps some of them had a little interest in the Chicago and Milwaukee.

Q.—That you can ascertain for me no doubt? A.—I could.

Q.—Before the Commission rises you can let me have that information? A.—Yes, I can find that out.

Q.—Will you have somebody make a note of it, so that in the meantime it may not be overlooked? A.—Yes, my impression is that they had none, although I am not positive.

Q.—One other question before we go on with the history— A.—The president informs me just now that there are four directors in the room besides himself and myself, that makes six out of nine, and those six had none. I doubt very much if any of our directors had any.

Q.—Then I was going to ask you this question: Had the purchase, the investment in this class of security, at the time you brought the matter before the Board, become a sort of growing policy with your company? A.—It had.

Q.—Tell me a little more about that? A.—Were you for instance designing to invest more largely in securities of that sort, and less largely in certain other securities? In other words, were you of the view that it was to the interest of the company to make a change in the class of securities, working towards securities of this class? A.—We were of the view that investments in traction securities were the safest and most profitable investments that we could get. If you like I will enlarge upon it. I do not want to do so unless you wish.

Q.—I do not know that it would be useful at this moment, because I am quite sure as we go through the matter, you will enlarge upon everything

that it is desirable to enlarge upon. But up to the time you commenced to invest in this class of security you had invested in certain other classes of securities, and what I am desirous of knowing is this: Were you abandoning to some extent investments in the old class of securities, and substituting for it investment in the new class? A.—We had in our earlier days invested nearly all our funds in mortgages. Our experience with mortgages had not been satisfactory. We found there were many objections to them, that if the property went up in value we made no profit. All we would get would be our money back, whereas if a section of city deteriorated in value and the property went down in value we would lose, we would have to foreclose and perhaps have a loss; so that with mortgages it was a case where we could make losses and could not make any profit.

Q.—Beyond interest? A.—Yes. By profits I mean beyond interest. That is what I mean by profits. Then there was a great deal of trouble looking after mortgages, they were small and required a great deal of personal supervision, and a great deal of clerical work in connection with them, looking after fire insurance, and in this province checking the Official Gazette all the time, to see that no notices of foreclosure would be given, because in this province we have to watch the Official Gazette all the time. Then we found that even with good mortgages the interest was apt not to be paid punctually. That caused trouble, and then perhaps the most important point of all, in regard to mortgages we found was this: Mortgages can be made perfectly safe to private individuals who look after things altogether themselves. They see the property and they go around and look after it, but when you take the case of a company investing many millions, then it is not—

Q.—Come, come, come, your company would have a staff that was just as efficient as any private person would have? A.—I beg your pardon, when you take the case of a company investing many millions it is impossible for the manager himself to give that personal attention to looking after the property that was possible in the early days. In the early days of our company the president and myself used to go and see every property we lent upon, but when you get the large amount that has to be invested, you have to trust to the judgment of a

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valuator, and perhaps of an office man, and the manager can no longer trust to his own judgment. It is impossible for him to do it. If he tries to do it, he must neglect more important things, and we felt we should make more money by taking up different classes of investments and dropping out mortgages. We were abandoning mortgages, and of all the new forms of investments that opened before us, we considered that traction securities were the most desirable for many reasons.

Q.—Now, you have just stated in the last sentence that you uttered, an answer to my question; you were abandoning a class of security which you had been investing in largely in the early part of your history—that is mortgage securities—and you were seeking to substitute what you considered the most desirable form of investment you knew of. That is these traction securities? A.—Yes.

Q.—And that you say was the policy which you were advocating? A.—Yes.

Q.—Then you made this statement to your Board; a committee was appointed, and while the Minute is very meagre, yet you filled it up with what you stated. Then you and Mr. Kingman proceeded about your duties I suppose, and what did you do? A.—On the 12th November I went through a list, examined very carefully the list of companies that was to be found in the street railway supplement to the Commercial and Financial Chronicle of New York which is issued quarterly, and gives very full details in regard to the traction companies of the whole of the United States and Canada. We went through carefully all those in the States in question, limiting ourselves to those States, because we thought those were the choicest States for our purposes, and we wrote a letter to about 35 of the presidents or managers of the leading companies in those States. We have a copy here of the letter that was sent to one person, and we just have a list of names showing that similar letters were sent to others.

Q.—There would be appropriate alterations in the case of each circular to meet the particular circumstances of the case you were writing about? A.—Precisely.

Q.—But the general idea of the whole 35 circulars was about the same? A.—Yes.

Q.—Were you enquiring—let me ask you about the 35 circulars—were you enquiring among those who were projecting roads, or among those whose enterprises were complete and in a

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fairly satisfactory position, or how were you doing in regard to that?

A.—We wished to see in the first place all those that we had already any of the bonds of, and then while we wished to get a grasp of the entire situation, for educational purposes, yet we wished principally to get into touch with companies that might be likely to bring out securities of their own in the near future. Companies that were absolutely completed and would not be likely to bring out any new securities would not interest us, because we had business in view, and we wanted to get into touch with corporations likely to have bonds issued.

Q.—I take it you wanted to get into touch with corporations which were projecting works? A.—Yes.

Q.—So that you might furnish the money for financing the works and so have your securities a charge upon the undertaking? A.—Yes.

Q.—Among those you wrote to, was this gentleman—we need not mention his name or the name of the company—this is only a specimen of the sort of literature you were then sending out. "This company has of late years invested large funds in the bonds and preferred stocks of street railway companies throughout the United States as well as Canada. Quite a large proportion of the most recent of these investments have been in the traction companies of Ohio, Illinois and neighboring States. The total amount of our purchases in that section of the country being well on to two millions and a half." A.—It shows how little I knew about it.

Q.—You might have been painting it in rosy colors to these gentlemen? A.—No, I tell the truth.

Q.—One of our directors, Mr. Kingman and myself intend to lease—(reads), that is a circular letter. It would not require a great deal of change or alteration to adapt it to all your correspondents? A.—Exactly.

Q.—And this fairly states the policy of your company at that time? A.—Exactly.

Q.—You did desire to participate in underwritings or to buy large blocks from the owners themselves, rather than purchase from those who became purchasers of the bonds? A.—Precisely. We saw no reason why we should continue to pay tribute to the middle man when our purchases were so large.

MR. LANGMUIR: Q.—You talk of two and a half millions. Were these investments introduced to you first by

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bankers and brokers, or personal visitation? A.—Up to that time they had been exclusively I think from bankers and brokers, and now we thought the time had come when we could make a change.

MR. SHEPLEY: Q.—You had participated in underwritings up to this time— A.—Yes, underwritings managed by brokers and agents.

Q.—And your negotiations had also resulted in some instances in your buying large blocks independently?

A.—Do you mean by independently, without the intervention of a middleman?

Q.—I mean without participation in an underwriting scheme? A.—Yes, part without the intervention of a middle man.

Q.—Both by underwriting, and large purchases without participation in underwriting, you had amassed this considerable holding of bonds? A.—Exactly.

Q.—And this indicates that you had besides the bonus, common stocks you had received in respect of your investments? A.—Yes. Letter, exhibit 603.)

Q.—You came to the conclusion Mahomet would have to go to the mountain and you sent out your Herald? A.—Yes.

Q.—What was next? A.—We then received an answer to that circular from many people of course, but in particular from Mr. McKinley, the Hon. W. B. McKinley.

Q.—Who was he? A.—Mr. McKinley.

Q.—What was he financially? What was he politically? And what was he socially? A.—Mr. McKinley is a resident of the City of Champagne, Illinois. He was not then, but is now the representative of that section of the city in Congress. He is a man of considerable means, my rough guess at his wealth would be that he is worth perhaps, a couple of million dollars, a man who has for many years been interested in interurban and street railways, and gas and public utility corporations, throughout that section, and made his money at that.

Q.—He has been perhaps a high class promoter but a promoter? A.—Yes. He is a man that we found upon inquiry had the reputation of making everything he touched turn to gold. Without exception everything he had taken a hold of had been a success. A man who stood very high indeed. I think at the present time he is the treasurer of the Republican Party for the whole of the United

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States. I do not know whether that is any recommendation or not.

Q.—There is a letter missing here. On the 18th November, you got this letter from Mr. McKinley—

MR. LANGMUIR: In response to a circular letter.

MR. SHEPLEY: Yes. "Your letter Nov. 12th reached me on my return from Chicago." This is written from Danville? A.—Yes.

Q.—"I am the manager of about a dozen gas, electric light and interurban roads" (reads). That is a separate property from the Danville property? A.—Nothing to do with it.

Q.—The Danville property is one we purchased from Mr. Cannon about two years and a half since?" A.—The Mr. Cannon referred to is Speaker Cannon of the House of Representatives. (Exhibit 604).

Q.—Now you have the little map there. Will you indicate these propositions on the map?

JUDGE MacTAVISH: We see Danville and Champagne.

MR. SHEPLEY: And also Urbana.

WITNESS: Urbano and Champagne, I may say, are practically one city. You cannot tell where the one begins and the other ends when you are in them.

Q.—Point out the geographical position? (Witness explains the map.) A.—We had some spurs running down here.

Q.—That was comparatively a small matter, by comparison of course with what the schemes afterwards developed. At all events we have them commencing at the extreme east of this map, at Danville we have this proposition covering from there to Champagne westward? A.—Yes.

Q.—And these spurs shown were also projected at that time? A.—Yes.

JUDGE MacTAVISH: What is the distance between the two cities? A.—About 30 miles. The company known as the Danville, Urbana and Champagne Railway which is the interurban line, owned all the lines from Danville over to Urbana, including the line down to Homer right in the middle, which however was not built then, and it owns now and did own then the line from Danville to Kitlin, and the line due south from Danville to Ridgefarm, but which was at that time only built as far as Georgetown.

MR. SHEPLEY: Q.—Those places are all shown upon this little map? A.—Yes.

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Q.—That is what was covered by that proposition? A.—Yes.

Q.—You have told us of this letter from McKinley. If we follow out Mr. McKinley's letter we get to all the enterprises which you subsequently took up. I mean in connection with the Illinois Traction scheme. I do not mean to say they all came from him, but you did not engage with others in connection with those schemes? A.—No, but we did not take up any of the other things mentioned in that letter of his, except the Danville—

Q.—I understand you to have said so. Then the next matter is your letter to him of the 24th November, "Your favor of November 18th is before me. You have presented so many propositions in your letter that it is difficult to form a hasty conclusion upon them." (Reads). A.—That should be Indiana and not Illinois.

Q.—We can drop that. I will draw my pencil through it, because that does not concern us at present? A.—No.

Q.—The Fort Wayne matter we can drop too? A.—Yes.

Q.—Then a reference to the Danville proposition (Reads letter 605). That was your reply to that letter? A.—Yes.

Q.—Then you got a letter from Champagne, from Mr. McKinley of the 27th November. I need not trouble reading the part as to the hotel you are to meet at in Chicago. The Illinois Road and Fort Wayne Road were passed over. (Reads letter)? A.—You see Mr. McKinley was stating what he expected to earn for the year 1902, and the figures that he expected them to earn were—

Q.—\$425,000—net \$200,000? A.—They actually did earn \$432,000, and a net of \$216,000, and that is one of his characteristics that we have found, that his estimates are always exceeded. We found him a very conservative man.

Q.—He ought to turn himself into an insurance company? A.—If every insurance company could exceed their estimates as he does, it would be a good thing.

Q.—Would the same observations apply to this paid up stock that apply to the stocks we were discussing the other day, that it was stock which did not represent money actually put in? A.—I know nothing personally about how that stock was issued, and I have never heard.

Q.—But what is your idea about it? A.—My idea would be that originally that stock cost nothing, was watered,

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but that the water had been very largely squeezed out we might say by the surplus earnings of the company, for a number of years being turned in to it.

Q.—Turned into it? A.—Turned part into improvements and extensions; in other words that the shareholders had not paid in themselves anything upon it, that they had by getting no dividends upon it for a long time while the company was earning large surpluses, in reality gone very far towards making their stock good.

Q.—That is, they would make out of the earnings of the road a very much better rate than they would earn at the beginning without putting anything into it? A.—Precisely.

Q.—And you quite understand that according to the ordinary accepted methods of finance, that these roads had been built by money borrowed upon bonds? A.—I do not know that I thought much about it, but I would suppose so.

Q.—Do you know of any road in the last four or five years, or any proposition that has been otherwise financed, of this class? A.—Yes, some of them have stock put in. I can mention some.

Q.—But it is unusual? A.—A very large proportion are financed in the way we speak of.

Q.—That answer will be satisfactory. "Our desire is to sell a five per cent. bond." (Reads letter). The proposition was to bond the whole undertaking for one million four hundred thousand dollars, to secure that by first mortgage upon the road, and by second mortgage on the Danville Light Company and the Urbana Company, which were subject to another lien of \$1,400,000? A.—Yes.

Q.—And the purchasers of the bonds were to receive one third of the whole of the stock of the company by way of bonus upon their purchase? A.—That was the proposition, but we get a good deal better term than that before we got through. (Letter exhibit 606).

Q.—It is only of importance as indicating the nature of the scheme that was being discussed. Then you paid your visit to Chicago? A.—Mr. Kingman and I visited Chicago, and we were absent almost precisely two weeks. With the exception of this little digression to take in Mr. McKinley's roads, which had not originally been on our plan at all, we pretty well carried out our programme and saw a

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large proportion of the traction companies in those States.

Q.—Let me separate that a little, so as to get it in a little better shape for my purpose. In the first place you had examined all the concerns in which you were already financially interested in those States? A.—Yes.

Q.—That you did? A.—Yes.

Q.—Then apart from the McKinley propositions you examined certain other propositions or certain other schemes which you thought it possible you might buy bonds of? A.—Yes.

Q.—How much time did you spend altogether going over this McKinley scheme? A.—We were about two days if I remember right looking over Mr. McKinley's scheme, between one and two days.

Q.—Did you go over the road? A.—Yes. I may say that our programme was that when we would go to a place we had everything cut and dried, and we were to meet so as to save time—

Q.—That was not a good way to inspect, that they should have everything cut and dried for you? A.—We found it was, and I will explain why. We went over the road and the president or some official would go with us, and we would question him, and it was a great education in itself, to get one man telling us about their properties, and in that way we posted ourselves as far as possible about all those properties we wished to find out anything about, including those we had already and the new ones, that we thought it was worth our while to look into. The cut and dried part of our programme—that is that we had our—

Q.—You did not mean that they have everything cut and dried so that you would just look at it and walk off satisfied? A.—No.

Q.—Did your visit on that occasion lead to your making further investments in traction schemes in those States beyond those to which you were introduced by Mr. McKinley? A.—Yes. In particular it led to our making a decidedly larger investment in the securities of the Milwaukee company.

Q.—That was a security you had before? A.—Yes, but we increased our holdings very considerably.

Q.—Did you increase your holdings in any other enterprise than you were then interested in? A.—I think not, not immediately.

Q.—What I had rather intended to ask you was this: Whether or not you went into any new enterprise besides the enterprises that Mr. McKin-

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ley was bringing to your notice at that time as the result of that visit?

A.—So far as I remember not. We found McKinley's enterprises were the most attractive ones we saw on our entire trip.

Q.—You were two weeks away altogether, spending the time at these propositions, and you returned, and upon your return what took place?

A.—On December 23rd,—

Q.—First there was a meeting of the Board on December 16th? A.—On December 16th, we reported to the Board, and the Minute there gives it.

Q.—You and Mr. Kingman made a report, and I understand there was no formal written report, but a mere verbal report made to the meeting direct? A.—Yes.

Q.—“Mr. Kingman and the secretary reported on the trip they had taken through the States of Illinois, Indiana and Ohio.” You omitted Michigan? A.—In Michigan we did not find very much that suited us.

Q.—This minute is simply expressing thanks. When did the matter take a substantial form? On the 23rd I think? A.—One week later.

Q.—A week later—on the 23rd? A.—On the 23rd, Mr. McKinley visited Montreal by previous arrangement.

Q.—Did he meet your Board? A.—He met our Board and the whole matter was discussed, and the directors decided, if I remember right, to make a purchase.

Q.—I am coming to that in a moment. Your Board meetings were held regularly? A.—Yes.

Q.—And this was a regular weekly meeting? A.—Every Tuesday.

Q.—Is there anywhere any more extended account of what took place at the Board than this minute? A.—No.

Q.—“Proposal to purchase \$500,000 five per cent. bonds,” (reads). Now, elaborate that for me. What took place at meeting? A.—At that meeting, so far as I remember, the matter was discussed at length and—

Q.—In the first place it says, “proposal to purchase.” Whose proposal was that? A.—I think it was a proposal of Mr. Kingman and myself.

Q.—That you should purchase \$500,000 of these five per cent. bonds? A.—Yes.

Q.—What bonds were those? They are stated to be the bonds of the Illinois Railway and Light Company. That is something we have not seen, by name at all events, in Mr. Mc-

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Kinley's letter or letters? A.—I can explain at any rate what it was. The idea was—

Q.—This memorandum is dated December or January, 1903. You think that was prepared at or about the time of the meeting, having regard to what was done there? A.—That memo. of December or January is just a jotting of my own. It is in Mr. McKinley's handwriting, and it was prepared either at that time in December, or when he was in Montreal a month later. I really cannot say definitely at which time it was prepared, but I can explain what the idea was.

Q.—Before you come to that, is the Illinois Railway and Light Company which is mentioned in this minute any of the propositions discussed in Mr. McKinley's letter to you, or is it a different proposition? A.—It is a consolidation of the companies discussed in these letters, or rather a proposed consolidation.

Q.—This is a proposed consolidation, and that is what finally evolved into the Illinois Traction Company? A.—Yes.

Q.—The Illinois Railway and Light Company? A.—Illinois Railways, illustrating the fact that it owned a lot of others. This was actually the beginning, the first thought so to speak of the Illinois Traction Company.

Q.—What \$500,000 of 5 per cent. bonds were you proposing to purchase? Whose bonds were those? A.—The proposition was that the two properties, the property in Danville, consisting of the Danville street railway, the lighting plant, the gas plant, and the steam heating plant for the street railway, the electric light, gas, and steam heating properties in Champagne and Urbana and the portion of the interurban which had been built, and the portion to be built, should all be owned out and out by the new company to be known as the Illinois Railways and Light Company, which changed plan Mr. McKinley had outlined in his first letter. The stocks of the Danville, Urbana and Champagne properties were to be purchased for \$675,000 cash, of which Mr. McKinley was to contribute one-third. We were to contribute two-thirds. In other words he was to contribute \$225,000 and we were to contribute \$450,000, and each would receive 5 per cent. bonds at 90.

Q.—Bonds of what? A.—At that time it was intended to have them bonds of the Illinois Railway and Light Company, \$500,000 at 90 would

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be \$450,000. Subsequently the plan was changed and instead of getting bonds of the Illinois Railway and Light Company it was decided that the then railway and light company should be purely a stock holding company and should issue no bonds of its own.

Q.—That is that the subsidiary company whose stock was owned and controlled by the parent company, the Illinois Traction Company, each having its separate organization and issuing its separate bonds? A.—Exactly.

Q.—Can you tell me whether on the 23rd December when this proposition was made and discussed, the plan had been changed, or was it then expected the parent company should issue bonds? A.—At that time, it was still thought the parent company should issue bonds.

Q.—That would be consistent with the letter? A.—Yes.

Q.—Then it says, "Received one-half of the capital stock as bonus." That would be one-half of three million? A.—Yes.

Q.—And the parent company was to be stocked at three million? A.—Yes.

Q.—And that stock was to be given to the extent of half of it by way of bonus? A.—Yes.

Q.—To you and McKinley? A.—No.

Q.—To the company and McKinley under this proposition? A.—No, that is not just the exact idea. The idea was that McKinley should contribute one-third of the cash required and we should contribute two-thirds, but that we should divide the whole three millions and a half.

Q.—Each receiving one half? A.—Yes.

Q.—You were to receive a million and a half of the common stock and McKinley the other million and a half of the stock? A.—Yes.

Q.—Of the Illinois Railway and Light Company? A.—Yes.

MR. LANGMUIR: Q.—What was the amount of the bonds? A.—The bonds we got, \$500,000.

Q.—And McKinley? A.—\$250,000.

Q.—What was the entire bond issue? A.—There was about \$1,400,000 of bonds of the other company underwriting.

MR. SHEPLEY: Q.—That was according to the proposition made in the letter. He said "We want \$1,400,000 of bonds, and we will secure that, but as to certain of these matters it will be

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subject to a prior issue of bonds." That is what took place on the 23rd, and don't you think it was probably when he was here on the following January that this arrangement was made, because this is much more in accord with the arrangement you afterwards carried out than the minute is? A.—I first wrote January and then I scratched it out.—

Q.—Before we come to that I see you had a meeting on 30th December which seems to be material. This is with regard to the sale of securities. "In order to meet the heavy obligations which the company have incurred for the purchase of new securities, soon to be taken up, it may be necessary to sell some of the securities at present held by the company, approve disposing of certain securities if it should be found necessary." Can you expand that for me at all? That referred principally to what you are now proposing. That was referring principally to what was then being discussed? A.—Yes.

Q.—That is your negotiations with McKinley? A.—Yes, and with the Chicago and Milwaukee.

Q.—What securities was it approved should be disposed of? A.—I do not remember.

Q.—Speaking generally were you intending to narrow your investment in mortgage securities in accordance with the policy you adopted? A.—My recollection is that the decision to abandon any mortgages altogether had been arrived at before this some time.

Q.—But you still had certain mortgage securities? A.—Yes, but we made no effort to realize upon them.

Q.—Then what securities had you to dispose of in order to embark in these new schemes? A.—The general idea that we had was that this was a very attractive investment that was offering to us, and that it would be easy to sell out any of the securities we could conveniently dispose of, the ones we could dispose of—what ones would be sold would depend largely on the question which could be most easily turned over.

Q.—Had you any call loans at that time? A.—None at all.

MR. LANGMUIR: Q.—Had you any municipal debentures? A.—Yes.

Q.—Did you dispose of them? A.—I think we had disposed of some of them. I know our policy was to dispose of municipal debentures.

Q.—They were only bringing four or four and a quarter? A.—Yes, and we considered it good investment to drop those things and take up this one.

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Q.—Do you think these traction companies were as safe as municipal debentures? A.—We did. I will be very pleased to show this particular one—how we looked upon this particular one.

Q.—I thought there was nothing in the world safer than municipal debentures? A.—Our experience with municipal debentures, that if you take those that are unquestionably safe you get a very low rate of interest.

Q.—Decidedly, but I never heard of anything safer? A.—On the other hand, if you take anything that yields a fair rate of interest you have to look out for it. We lost money on West Toronto Junction securities, New Westminster securities, Brandon securities, and there was talk of trouble with Sault Ste. Marie securities, and we came to the conclusion that unless we were to be satisfied with the low rate of interest, we should not touch municipal securities.

Q.—Do you know whether any fault has been found with the traction companies' securities? A.—A few, not a great number.

Q.—And passing over of interest on stocks? A.—Yes. I do not claim either is infallible.

Q.—I do not want you to confine it to Toronto Junction? A.—No.

MR. SHEPLEY: Q.—Really is it not fair to say that the great inducement to get into these things was the fact that you stood, apart from any question of investing money at interest you stood to make large sums of money? A.—We considered that those were just as safe as any kind of security we should get anywhere.

Q.—But no safer? A.—Well, as good as the best.

Q.—But no better? A.—They cannot be better than the best. I wish you could find something better than the best.

Q.—Was not the great inducement to go into this rather than to go into other investments of an equally safe character, the fact that out of this you hoped to reap large profits in addition to the interest on your money? A.—Undoubtedly. We consider safety is the first thing, but if we have the choice of two investments equally safe, then we are bound to take the one with the best return.

Q.—Can you give me any more information before leaving that of the sort of securities you were approving of disposing of? A.—It referred to other traction securities we might be able to dispose of.

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Q.—Other traction securities that were not quite as good? A.—No, but more saleable, it just happened to be ready to sell.

Q.—Anything you could realize on you were willing to realize on in order to go into these, I won't call them speculations, into these schemes? A.—Precisely. I do not wish to forestall you, but whenever it is a right time to discuss the question of the security of these particular bonds, I will be happy to do it.

Q.—I think we will have the history of them first, and then we shall be very glad to hear what you have to say in regard to them. After all it was a speculation? A.—I must decline to admit that, unless you consider the case of heads I win, and tails I can't lose, a kind of speculation,—that is the kind of speculation we believe in, but the ordinary speculation we have no use for.

Q.—We have heard of lots of traction securities that went wrong. "In view of the fact that the securities being offered to the company." (Reads.) That means that this memo. was read and approved? A.—Yes.

Q.—Then at that meeting two things were apparently disposed of. In the first place the directors approved of the policy of getting rid of all the securities that were necessary to get rid of, in order to engage in these schemes? A.—I do not like that expression "In order to purchase these other securities," if you will change the expression—

Q.—To engage in this class of investments,—will you accept that? A.—Yes.

Q.—And the securities that you had in view then were the Chicago and Milwaukee and these McKinley securities? A.—Yes.

Q.—Then the other things that you disposed of was this; you were willing to engage the credit of the company for larger holdings of stock than they wanted, permitting the directors—those of them who chose to do so,—to go in and finance on their own responsibility for a part of that credit? A.—We did not engage the credit of the company. The company acted for the amount that it took only, but in order to obtain the best terms for any issue of bond or in connection with any traction company we must at all times be prepared to say "We will take or we will see that others take the entire issue."

Q.—Is that not engaging the credit of the company? A.—If you limit that expression—

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Q.—That is what I meant by that? A.—If you mean no more than that, I suppose so.

Q.—Engaging the credit of the company in the first instance on the undersanding, in respect of a portion of that, that the directors will become personally interested and would relieve the company? A.—The directors and other friends, the company's backers, and so on.

Q.—"To divide such blocks with other financial corporations," (reads). A.—The idea was that the American bond houses would be glad to take part of those issues on the same terms as ourselves. We have to take an entire issue if we can get the best terms, and it is not desirable to put too many eggs in one basket if we can avoid it, and therefore we are prepared to welcome others coming in on the same terms as ourselves.

Q.—And among others you were prepared to welcome your Board of Directors? A.—Yes.

Q.—Stretching out a friendly hand to them? A.—Yes.

Q.—They could come in on the same terms? A.—Yes, and so could American banking and bond houses.

Q.—That is if your directors did not want all you did not want yourselves? A.—Yes.

Q.—Then let me ask you the question which I have had to ask other gentlemen in this enquiry several times. Do you yourself see any conflict between the interest and the duty of directors? A.—When the directors—

Q.—Do you, first? You can explain fully, but do you see any possible conflict between interest and duty on the part of the directors under this resolution? A.—I do not see any possible conflict when the portion the directors own is limited to so small an amount as it is with us.

Q.—I am speaking of the resolution. The resolution makes no mention of the amount. It leaves it to the directors? A.—We considered it was eminently desirable from the company's standpoint that the directors should take a share of these things. It shows the directors had faith in the things they were putting the company's money into, because they were willing to put their own money in on the same terms as the company's. I must point out that there is a very sharp distinction to be drawn between directors going in, or other people going in, and purchasing securities on exactly the same terms as the com-

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pany, and the company having dealings with other corporations owned or controlled by directors. They are absolutely different things.

Q.—That is a different matter. But look at this thing on its own merits. Do you see any possible conflict between the interest and duty of the Board of Directors in carrying out the terms of this resolution? A.—No.

Q.—Do not see any? A.—Absolutely none. It is a desirable thing as far as I can see.

Q.—Supposing the directors with a certain limited fund of their own, or a director—take it in the singular—a director with a certain limited fund of his own for investment sees an investment of this class, and desires to invest in it, but is not able to make advantageous terms for himself because his fund is too small, do you see any possibility of his duty to his company conflicting with his interest, and his interest impelling him to embark the company's funds so that he may get the better terms? A.—That comes down to the distinction I drew before.

Q.—Do you see the possibility of that? I do not for a moment think that you or your co-directors have ever abused it, but I am asking if you see a possibility? A.—If a director were taking a large amount I could see that there would be that danger, but I do not see that there would be that danger if the amount was very small.

Q.—Supposing the director says, "Here is an investment I would like to make. I have only got \$100,000, and in dealing with small sums I will have to pay ninety-five, if I can take a million or embark the company's funds for the other \$900,000, I can get it at seventy-five. I will have my small holding at seventy-five and the company will have its large holding at seventy-five." Do you see any possibility of a conflict there? A.—I could hardly conceive of such a thing, because it would be such a case of the tail wagging the dog.

Q.—Does not the directors tail always wag the company dog. What is it there for? A.—No sir, not with us.

Q.—Is that not what he is for, to transact the company's affairs? A.—Yes, for the company, not for himself, and our directors have always done so.

Q.—You have answered by question. I am not questioning that; I am asking you the abstract principle of the possible conflict. I do not say the conflict has arisen in your case, or that you have ever done anything that is

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wrong. What I am suggesting is that it is a position that a director ought not to put himself in. A.—I would like to say this, that if the principle were to be laid down that a company should not take any securities because a director is taking them on the same terms it is, one or other of two things; either it would exclude the company from the most desirable form of investments, or it would exclude a director from investing in what the company considered to be desirable things, and in either way it would be a very unwise resolution. There is a very sharp distinction to be drawn between this letting the directors or their friends purchase on absolutely the same terms as the company, neither better nor worse, which is exactly what we have done and all that we have ever done—and having dealings with the directors.

Q.—In this particular case I suppose you prepared this agendum which passed into a resolution? A.—Yes.

Q.—Was that drawn after consultation with the other directors and because they desired to participate in this advantageous investment, or was it your own view? A.—It was my own view.

Q.—No consultation with the other directors? A.—I don't think so, although I am not positive. I think not. Except with the President.

Q.—And you still cannot see any possibility of abuse in the position that a director who is to decide what investments his company may make may possibly influence the company in making any particular investment by the fact that if the company buys he will get his little money invested to better advantage than if he invested it on his own hook? A.—I can hardly think directors would be so small anywhere. I cannot think any director would be influenced.

Q.—You do not mean to say that no director in the world ever abused his position? A.—I have never known such a case as you are supposing to happen in any company in the entire world.

Q.—You never knew of a director abusing his position? A.—No, sir, I did not say that, but I have never known a director abusing his position in the way you are suggesting.

Q.—What, for the purpose of putting anything in his own pocket? A.—No, but your suggestion is that a director for the purpose of making a small profitable investment of his own

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funds, may persuade a company to make a large investment.

Q.—Have you never heard of a small souled director? A.—I have never heard of a small souled director of that particular kind. We have no small souled directors.

Q.—I am not suggesting that you have but I am trying to get the principle. Then the directors availed themselves, perhaps in more than one instance, of the terms of this resolution. A.—They did.

Q.—Then what was the next matter, according to this very useful index of yours? First a report from Mr. Hodges that was presented to the Board on the 20th January? A.—The 3rd of January is the next.

Q.—Yes, on the 3rd January Mr. McKinley writes to you from Champagne. "I have your letter of the 30th December." That is missing, I think. You will find that for us, will you? A.—Yes, if you like. I do not think it is of any consequence.

Q.—"And your telegram of yesterday. I shall be glad to meet Mr. Hodges." Mr. Hodges was, I think, an engineer whom you were sending out to make an interim report. A.—Yes, perhaps I should explain what steps we took in order to guard against making a mistake in taking the securities.

Q.—If you think it necessary to go further than to say you employed Mr. Hodges whom you believed to be an eminent engineer. A.—We employed Mr. Gilbert Hodges as an engineer to look over the properties. We had their earnings for five years given to us and we wanted that checked to make sure that it was correct. We had that checked by the Audit Company of Illinois. Then we had the legal matters looked into by Mr. Judah, a very prominent lawyer, chosen for us by the Bank of Montreal. We did not know who to choose in Chicago. And they also suggested the Northern Trust Company as trustee. So that we protected ourselves in every possible way as well as looking over the thing ourselves.

Q.—Where does Mr. Hodges live? A.—In Boston.

Q.—And I think you have told me—I want you to have the advantage of that—who he was. A.—He was the Consulting Engineer of the Railway Commissioners of the State of Massachusetts.

Q.—And you considered him a man at the head of his profession? A.—A man very high up in his profession.

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Q.—Then you were sending him out to make a report and you had written apparently to Mr. McKinley that he was coming? A.—Yes.

Q.—"We will send you weekly the statements for both the Champagne and Danville." "Urbana to St. Joseph." Is that a little extension? A.—St. Joseph is a place about eight miles east of Urbana.

Q.—That is the western abutment that you had not filled up? There was an unfinished link between that and the western end of the line, on the west? A.—Exactly.

Q.—(Reads from "You will please take into consideration" to "Georgetown" in the letter last referred to.) One car is not a very valuable proposition by itself? A.—They are speaking of that little line.

Q.—That was to be part of the main line? A.—When it was finished.

Q.—That is the Champagne and Vermilion? A.—The Vermilion Company was a company which at that time owned all the stock of the Danville Street Railway and Light Company.

Q.—What was the Vermilion Company itself? A.—Just a stock-holding company. The reason for its existence was that the stockholders of the Danville Street Railway had wished in previous times to draw some money and they pledged their stock of the Danville Street Railway and as security for an issue of bonds of, I forget the amount. And they organized the Vermilion Company to hold the stock subject to that issue of bonds. The Vermilion Company has passed out of existence.

Q.—He says he has a signed option on the majority so that as far as he is concerned he is ready to go ahead, picking up the smaller shareholders. That is in the Vermilion Company? A.—Yes, and the Urbana and Champagne.

Q.—"We have some important decisions in regard to extensions" reads to "answer any legal questions you or your attorney may ask." (Filed as Exhibit 607). Then between that and the 6th you seem to have wired to him that you desired the Northern Trust Company and Mr. Noble Judah to be in the transaction. Mr. Judah being the solicitor who had been recommended to you by the Bank of Montreal? A.—Exactly.

Q.—"Anyone," Mr. McKinley says on the 6th, "is satisfactory to me." (Reads to "my experience has been that cash is a pretty good thing to

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figure by.") What was the difference between the Audit Company man and him? A.—Speaking from memory there was a difference of about \$5,000 in the total. I won't be positive, but it was not very much. The Audit Company's figures on the whole very closely confirmed the figures that had been given to us, with the exception that there was a little variation due to their figuring on tickets that had been used and the Traction Company figuring on tickets sold. It is an old difference between the ways of figuring. Either is good enough, if you get enough of it.

Q.—Then there is a further letter from him, a sort of postscript letter of the same date, the 6th, written from Chicago saying that he has run up there to see the Trust Company and to see Mr. Judah. I need not read that; that will be pinned to this and will form one Exhibit (No. 608.) Then did you communicate with Mr. Hodges and have him wire you? A.—We did and we got a wire from him.

Q.—With the result that you got a wire on the 9th saying, "My impressions of all properties are very favorable?" A.—Exactly.

Q.—Then what took place next? A.—Shortly afterwards we received a full written report from him, going into the matter at considerable detail, and his report was very favorable and entirely confirming the favorable impressions which Mr. Kingman and myself had formed from our own examination.

Q.—Meantime you had seen Mr. McKinley according to his understanding? A.—Mr. McKinley came to Montreal on January 13th.

Q.—Then did the matter take the shape that is shown in this memorandum? A.—Yes.

Q.—And what is the relation of that memorandum to the earlier one, the date of which we could not quite make out? A.—I am not at all sure. I found this earlier memorandum among our papers, but my memory is a little hazy about how this one comes there.

Q.—Perhaps we will not, unless you see some necessity for it, embarrass the record with the earlier one, but take this one of 13th January as embodying the terms you came to upon that day? A.—Yes.

Q.—I am not forgetting about the subsequent report of Mr. Hodges, but I will put all the Hodges papers in together when we come to that date. On the 13th January you had a meet-

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ing here and he had been at Portland in the meantime, had he? A.—I think so, yes.

Q.—And having regard to the fact that Hodges had wired you, he probably was feeling pretty easy in his mind as to whether or not he could come to a deal with you? A.—I have no doubt. I think that Hodges was with him when he sent the telegram so that I think he knew about it.

Q.—Then did your Board assemble on the 13th? A.—Our Board would have met that day because it is the regular day just one week before the 30th, but there was no minute on the subject.

Q.—Do you think that he meant others of your Board besides yourself? A.—It is quite possible, but I really cannot remember.

Q.—Did he bring his attorney with him as stated? A.—I think he did, but my memory there is a little bit hazy. I have no reason whatever to doubt that he did; my strong impression is that he did.

Q.—Had you anybody here acting for you? A.—Yes.

Q.—Who? A.—Mr. Selkirk Cross.

Q.—Was there a good deal of discussion, or did the matter culminate in the arrangements without any difficulties and without much negotiation? A.—There was very little difficulty in our arriving at terms, because everything had been so fully discussed before, that it was just a question of getting things into good shape and then handing the whole matter over to Mr. Judah to put into legal shape.

Q.—Then this is the memorandum, and this memorandum has your own initials and the initials of Mr. McKinley? A.—Yes.

Q.—These initials authenticating the memorandum. You have your stamp on it of 13th January. A new company to be incorporated under the laws of the State of New Jersey—I thought we would hear of the State of New Jersey soon—to be known as the Illinois Railways and Light Company. Capital \$3,000,000. Collateral trust bonds for \$750,000, 5 per cent. half yearly, 20 years, redeemable at par any time. What bonds were those? A.—That is evidently the original idea that the bonds were to be secured by the deposit of the stocks of those companies and not by mortgage.

Q.—The original idea being that the bonds were to be bonds of the parent company? A.—Yes.

Q.—That is of this company that was to be the Jersey Company. "Also

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exchangeable for any new bonds that two-thirds of the holders of that issue of bonds should decide to accept, in lieu of their issue, bond for bond." What does that mean? A.—Would you mind reading it again? I haven't read this lately.

Q.—"Also exchangeable for any new bonds that two-thirds of the holders of that issue of bonds should decide to accept in lieu of their issue, bond for bond." What was the probable or possible necessity of a new issue to redeem the old? A.—In case of some refinancing scheme. I don't remember the details.

Q.—That sounds plausible and probable. Six directors, Messrs. McKinley and two others to be named by him. Mr. Robertson Macaulay, Mr. Ewing and Mr. Thomas B. Macaulay, that is your side? A.—Yes.

Q.—Three on each side. President, Mr. McKinley. Vice-President, Mr. Robertson Macaulay. Secretary Mr. R. R. Mattice, who is he, is he a McKinley man? A.—A relative of Mr. McKinley.

Q.—Mr. McKinley is to go ahead and arrange for the organization of this company? What properties are referred to here? Those of the subsidiary company? A.—All the properties, I suppose so.

Q.—The outstanding bonds, those would be the bond issue of the subsidiary companies? A.—Yes.

Q.—That was for the purpose of getting rid of those separate organizations? The Vermilion Railway and Light Company was the holding company? A.—Yes. The Vermilion Company passed out of existence, but the Urbana and Champagne is still in existence.

Q.—What was the purpose of getting the Urbana and Champagne Railway stock in? A.—He wanted to get some cash and wanted to deposit these things as security with us.

Q.—Were the Vermilion shares to be security as well? A.—Yes, the Vermilion shares at the start were all, that in reality, he could deposit until he could pay off the bonds of the Champagne Company.

Q.—That is what his share of the money was to pay off? A.—No, it was not intended at the start to get rid of the bonds of the Vermilion Company at all, until later, you will find a little further on that they were got rid of.

Q.—How was he to acquire these shares, by paying for them? A.—By paying for them. He owned a considerable amount.

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Q.—In order to do that all he had to do was to pay the outstanding bonds? A.—No, he was to purchase the stock of the Vermilion Company. It was not intended that he should purchase the stock of the Danville Company. The Vermilion Company at that time owned all the stock of the Danville Company.

Q.—We have not heard of a loan to Mr. McKinley. It is not in this memorandum. We will go through the memoranda and get just what the transaction was about that loan. (Reads from "which will make a total of 10,000 shares" to "not later than May 10th.") That foreshadows the loan set out in the statement you have just put into my hand. Let me stop there for a moment and get my ideas cleared up a little. The arrangement that was made according to the minute made in December was that you should advance \$450,000, getting \$500,000 of bonds for it? A.—Exactly.

Q.—That he should advance \$225,000, getting \$250,000 of bonds? A.—Exactly.

Q.—That would make altogether \$750,000 of bonds upon which \$625,000 would be advanced? A.—\$675,000 would be advanced.

Q.—This seems to indicate a transaction of a somewhat different nature. You are to lend Mr. McKinley in the first place \$450,000? A.—Yes, getting as security the whole thing.

Q.—Then when the bonds are issued, the \$750,000, you are to get \$500,000 of them, in cancellation of that debt? A.—Yes, which is exactly the same arrangement, you see.

Q.—When it is carried out? A.—Precisely.

Q.—So that this is just an interim arrangement by which Mr. McKinley became a borrower pro tem until the issue of the bonds.

Q.—It was intended to provide for any shortage in the deposit of stock with the trustee, upon which the bonds were to issue? A.—But no such shortage occurred.

Q.—Then upon that day you lent Mr. McKinley \$150,000? A.—Yes.

Q.—And you took as collateral 3,860 shares of Vermilion and 1,081 of Urbana and Champagne according to this statement? A.—Yes.

Q.—Then on the 2nd February you lent another \$16,000? A.—Yes.

Q.—And you got for that 120 shares of Vermilion and 420 of Urbana and Champagne? A.—Yes.

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Q.—Now, does that mean that in the meantime Mr. McKinley was picking up these shares? A.—Exactly.

Q.—And as he got a bunch of them together he would bring them to you and you would advance him proportionately to the amount of the stock? A.—Exactly.

Q.—All under the terms of the memorandum, and all with the intention that you should in the end become the holders of the bonds and so cancel this debt? A.—Exactly.

Q.—Then on the 4th February a loan of \$134,000 upon 2,875 shares of Vermilion, 1,635 shares of Urbana and Champagne; on the 17th March another loan of \$65,400 on 10,000 shares Vermilion, making a total loan of \$365,400. Then there was a change. But before going into that, so as to preserve the chronological arrangement, I come to Mr. Hodges' report. That was, you told us, a favorable report? A.—Yes.

Q.—It fully bore out what had been observed by yourself and Mr. Kingman on your visit? A.—It was very satisfactory.

Q.—Unless you want me to read that I will put it in unread. The memorandum of the 13th January will be Exhibit 609; the statement of the interim loans to McKinley, 610, and the telegraphic and extended reports of Mr. Hodges, Exhibit 611.

Q.—Now, the papers so far are consistent and consistent only with bonds being issued of the Illinois Railway and Light Company. Can you tell me when that element was dropped out of the scheme and that company became a holding company merely of the bonds of the subsidiary companies? A.—It was some time about the middle of January. I think the suggestion originated with Mr. Judah.

Q.—Have you any correspondence on the subject? A.—I think you have some. For instance, January 21st.

Q.—There is a letter of September, which has got out of its place. You have not made the correspondence quite complete, because I see in Mr. McKinley's letter to you of the 19th January he refers to a letter from you? A.—I did not make it complete because there were a number of letters and I just picked out the ones I thought essential to give the thread of it and I left out any I thought unimportant.

Q.—Very likely we will gather the gist of your letter from his. Has this first paragraph about the Trust Company anything to do with it or is that about something else? A.—That is referring to Mr. Judah's nego-

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tiations or investigations apparently. We found out for him from the American Trust Company, who were trustees for one of the underlying issues, of a \$300,000 issue. It was just in the way of getting the Trust Company as trustees for one of the subordinate issues to certify the exact number of bonds of that issue that were still outstanding.

Q.—And had to be provided for? A.—Yes.

Q.—Then we will just pass that over. How did this plan of financing strike you, Mr. McKinley asked. A.—May I interject here, this is the scheme that finally went through with very few modifications.

Q.—“We will propose to execute a trust deed securing \$1,600,000.” That has been raised \$200,000. A.—The trust deed finally made \$2,000,000, a certain amount being reserved in trust.

Q.—What was the reason for making \$200,000 more of bonds than had been contemplated? A.—I think you will find that he explains that as he goes along. Mr. McKinley's idea was that the Illinois Traction, or Railways and Light Company, as it was then, should have this subordinate company, the Danville, Urbana and Champagne Railway, issue \$1,600,000 to be used as already explained and of which the bond house should purchase two-thirds and sell to the public and that he and we should keep one-third.

Q.—“We will further provide that there should be issued at once bonds to the amount of \$25,000 per mile for the 26 miles of road now in operation” reads to “D. P. and N.” What was that? A.—The Danville, Paxton and Northern. That was a small sub-company that sold out immediately afterwards to the Danville, Urbana & Champagne, and passed out of existence. It owned one of the spurs, and passed out of existence at once.

Q.—Then this is a scheme which makes the right hand wash the left; you get so much profit out of the sale of a particular block of bonds, use that profit in driving forward another extension and bond that and so on. A.—Well, if you substitute the word “proceeds” for “profit.”

Q.—I should have said proceeds. Then he sums up, we would then have outstanding \$1,275,000 of bonds on the 51 miles of road, and would have for ourselves \$425,000 of bonds and \$100,000 in cash to apply on the \$750,000 on collateral trust bonds we hold.” (Filed as Exhibit 612). Then this

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is a memorandum of certain papers which we need not, I think, bother about. Then your letter of the 21st January, 1903, to Mr. McKinley. A.—I think that is in reply to one you read.

Q.—“I think it would be better to go ahead with the necessary extensions of the line.” Did this scheme of finance which he was advancing and you approving practically mean that the thing would finance itself as it went along and that you would not have anything more to put up than you had already put up? A.—No, except the \$200,000.

Q.—Except the \$200,000 you would not expect to put up any more? A.—Yes, and the \$100,000 he was putting up.

Q.—That was in addition to what you had then lent to him, which was \$150,000 at that time. A.—No, that is in addition to the \$450,000. That would bring it up to \$650,000. The \$450,000 was for the purchase of the stock.

Q.—That would have to be expended any way? A.—Yes, and then the balance was for these extensions.

Q.—Then there is something about Rawlins? Is that of importance? A.—Rawlins and Sons are a very large firm in Boston, of bond dealers, that we had had many dealings with before. I think we had bought more bonds from them than any one firm in previous times, and we thought we could interest them to take a part of this jointly with us. We got right down to the actual terms on which they were to take these bonds.

Q.—But in the end they did not? A.—No.

Q.—Then I do not think I will lengthen the matter by reading about that. That did not come to anything. You were at that time contemplating getting somebody to help you carry the loan? A.—Yes.

(Documents last referred to filed as Exhibit 613). Then comes the letter of the 23rd January, 1903. (Reads this letter). That was a suggestion that the whole scheme should be changed, that it should not be a company issuing bonds, but a mere company holding stock. A.—Precisely. That expression “work \$100,000 out of the road” meant that the surplus earnings of the road would be sufficient to pay \$100,000 for the new track.

Q.—Then he deals with the purchase of generators, track and so on, and he says something which I dare

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say you have underscored; that he has been constructing plants for 15 years and until the last five years has always been compelled to figure very closely and carefully. “A habit that does not hurt anyone.” (Filed as Exhibit 614). Is your letter of the 28th January in response to that? A.—Yes, I think so.

Q.—On the last page you have this, which is relevant, “I think it is desirable that the Illinois Railways and Light Company should guarantee the new issue of bonds.” Reads to “by depositing them with the Trust Company than in any other way.” There is only a small part of your letter that is useful, but we had better keep it all. (Filed as Exhibit 615.) Then the last letter before the adjournment will be that of the 29th from Mr. McKinley to you. The only important statement is, “I would much prefer to sell the bonds at 90 and we keep all the stock. In fact I would be perfectly willing to put in the difference in cash if necessary?” A.—Mr. McKinley had very great faith in that stock, that it was going to be very valuable and his faith was justified. (The letter is filed as Exhibit 616.)

Q.—He justified it by his works and so did you. Now, there is an interregnum there in the correspondence, and the correspondence up to the present time marks one phase of the matter. Can you now show me upon this map what additional property had been brought in up to this stage. Is there anything additional up to the stage at which the correspondence has arrived? I will mark what it was at that time. A.—That is when finished out of that issue of bonds.

Q.—From Danville to Champagne? A.—All the spurs.

Q.—What about that Danville, Paxton and Northern? A.—It owned a little piece, I forget just which piece of these spurs, but it passed out of existence immediately. These spurs were not all finished. For instance the piece from the southern end of the longest spur, from Georgetown to Ridge Farm was only built about a year ago.

Q.—I think that the transaction you have spoken of does not appear under any of the dates that we have covered in your list of stock and bonds transactions in 1902 or 1903. That is, not in any separate form? A.—The very first entry would be when the permanent bonds were issued and the temporary loans paid off.

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Q.—Would not the loan appear in this? A.—I don't think so, no loans appear there.

Q.—This is merely where you permanently invest your funds? A.—Yes, and no stock loans appear there at all. Excuse me, the stock loan statement is at the back.

Q.—In 1903 in your statement of loans on bonds and stocks you have, under the date January to March, "Hon. W. B. McKinley 16,855 shares Vermilion; 3,136 shares Urbana and Champagne; rate of interest 5 per cent. Amount of loan \$365,400. Date June 30th, 1903." That is the date when it should be paid, is it? A.—The date of payment, I think.

Q.—And then "amount repaid \$365,400," showing that it was all paid off? A.—Yes.

Q.—That was, in fact, paid off, as it was intended that it should be by your becoming owners of certain bonds? A.—Exactly.

Q.—I want to see whether you can take the figures I am going to give you here and bring them into line with that statement. In the account of stocks and bonds purchased, transactions in 1903, we have: "March to June. Danville, Urbana and Champagne railway bonds, W. B. McKinley; at prices ranging from 85 to 90 per cent., \$884,000 par value." For which you paid \$771,956.72. You see that entry? A.—Yes.

Q.—Can you divide it up for me? A.—Yes, \$406,000 of those bonds at 90 represent the amount that was covered by these loans.

Q.—Make the multiplication. \$365,400? A.—Yes. \$406,000 of bonds at 90 supplied the exact \$365,400 required upon the loan.

Q.—Well, then was all the rest at 85? A.—All the rest was at 85. That is explained clearly in the correspondence.

Q.—That is 478 at 85? A.—What is the total amount.

Q.—With exchange probably this is right. That would be \$771,700. Here the figures are \$771,956.72? A.—That will be exchanged, I presume?

Q.—Then you are right that the other 478 would be at 85, while the 406 was at 90? A.—That is right. Here are the entries.

Q.—You got \$406,000, allowing Mr. McKinley 90 for that, in discharge of his loan? A.—Yes.

Q.—How did you come to do that when you were yourselves having to

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pay only 85? A.—The first issue of bonds was all at 90. I mean the first purchase of bonds, the \$406,000 and Mr. McKinley's \$250,000 were all paid for at 90.

Q.—What you mean to say is this, this \$406,000 was all you were entitled to get at 90? A.—At 90.

Q.—He was entitled to get a corresponding amount under your agreement with him at the same figure? A.—One-half that amount.

Q.—A proportionate amount I should have said? A.—Precisely.

Q.—At the same figure 90, and you both got at 90, you wiping out his debt with what you sold off? A.—Exactly.

Q.—Then you did not get \$750,000? A.—No, we only got \$450,000. He got \$250,000.

Q.—Did he get the whole \$250,000? A.—Yes.

Q.—Why didn't you get \$500,000? A.—Because there was a difference of \$94,000 taken by our directors and our friends in Montreal. The \$750,000 was made up as follows: \$406,000 taken by the company; \$250,000 taken by Mr. McKinley, and \$94,000 taken by persons in Montreal, directors and others.

Q.—Then you can give me, before we meet again, the names and amounts of those who took? A.—I think we have that here.

Q.—They all got theirs at 90? A.—Yes.

Q.—So that the whole \$750,000 was actually handed out? A.—Yes.

Q.—Mr. Robertson Macaulay, 13 bonds, is it? A.—He got \$13,000 of bonds.

Q.—You got \$50,000? A.—Through the Quebec Bank I got \$50,000, yes.

Q.—At 90? A.—Yes.

Q.—Or did you get them at any less? A.—No.

Q.—And all these got at 90, I am assuming? A.—That is right.

Q.—Mr. H. R. Macaulay, who is he? A.—My brother.

Q.—He got \$10,000? A.—Yes.

Q.—Mr. Kingman, \$10,000. Mr. Tasker \$6,000. Who was he? A.—A director.

Q.—And Mr. Stevenson of the Quebec Bank got \$5,000. That was all, was it? A.—I think so.

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Q.—That makes 500? A.—That is right.

Q.—When you said directors and others, was Mr. Kingman a director? A.—He was.

Q.—Mr. H. R. Macaulay was the only one, not a director. A.—And Mr. Stevenson of the Quebec Bank.

Q.—Then about the bonus stock that was to come. These bonds, of course, were the bonds, not of the Traction Company, but of the Danville, Urbana and Champagne Railway? A.—Yes.

Q.—Which had absorbed the Danville, Paxton and Northern? A.—Yes.

Q.—And the bonds were secured upon the properties of both? A.—Yes, and were guaranteed also.

Q.—By the parent company which was then the Illinois Railways and Light Company? A.—And also by the deposit of the entire capital stock of the Danville Street Railway and Light Company and of the Urbana Railway, Gas and Electric Company.

Q.—Those stocks to be subject to a prior loan from your own bonds of \$1,400,000. A.—About that.

Q.—Then your company was to get one million and a half of the stock of the parent company as bonus upon the transaction. A.—When you say our company, you mean our company and those acting with them.

Q.—And those who were acting under its wing? A.—That is right, conjointly with it.

Q.—And was that divided proportionately between these gentlemen who took the bonds? A.—Exactly. Everyone treated on absolutely the same basis to the very cent.

Q.—Let us take that down upon the record. The company got \$1,218,000 of bonus stock. Mr. Robertson Macaulay got \$39,000. You got \$150,000. Mr. H. R. Macaulay got \$30,000. Mr. Kingman \$30,000. Mr. Tasker \$18,000. Mr. Stevenson \$15,000. Those make altogether \$1,500,000? A.—That is right. I would like to emphasize although I have already stated it, that everybody came in on exactly the same terms and no person got any advantage over any person else or over the company.

Q.—Except, I suppose, that if one of these gentlemen had gone out with his \$10,000 or his \$6,000 to buy these bonds he could not have bought them on the same terms or got the same

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bonus stock? A.—That is unquestionable.

Q.—But coming in under this general resolution and under the wing of the company he was able to get the same terms as the company which had the large funds? A.—Exactly.

Q.—Then you have also given us the division of Mr. McKinley's million and a half of bonus stock? At least I assume that that is what those figures are intended to give. A.—Yes.

Q.—Before leaving that, were there directors who did not come in? A.—Yes, only four out of the nine directors came in. Five did not.

Q.—Then Mr. McKinley's million and a half was divided up on perhaps not quite such generous terms. \$1,497,000 to McKinley himself. \$10,000 to—who was that gentleman? A.—C. Zilly.

Q.—\$1,000 to Mr. Pepper; and \$1,000 to Mr. Johnson. Those were associates of his? A.—Officials of the company out in Illinois. But that was only the first division of Mr. McKinley's stock. He afterwards divided it much more extensively.

MR. LANGMUIR: What is that stock worth to-day, if you can tell me. A.—That stock was afterwards divided, 40 per cent. being made a preferred stock and 60 per cent. remaining common. The preferred stock is to-day worth about 95. It is listed on the Montreal Stock Exchange, and is one of the choicest securities you can get of that character. The common stock is held very closely and in fact you cannot get it at all. But as it is earning about 9 per cent. on the common stock to-day, this year, after paying all the interest upon all the bonds and paying 6 per cent upon the preferred stock so that in our estimation, while it is entirely an estimate because there have been no dealings to speak of—we have put it in at 55 as very low. In our contingent fund we have figured it as worth about 55. For a stock that is paying 9 per cent. we think that is a very low valuation, but there have been no dealings in it.

MR. SHEPLEY: This seems to be a good time from your standpoint, at which to adjourn. A.—The 9 per cent. is not paid, you understand, but is earned.

(At 4.30 p. m. on Tuesday, 23rd October, adjourned to 10.30 a. m. on Wednesday, the 24th October).

MORNING SESSION.

NINETIETH DAY.

Montreal, October 24th, 1906.

SUN LIFE ASSURANCE COMPANY.—*Continued.*

T. B. MACAULAY, Examination resumed by Mr. Shepley:

MR. SHEPLEY: Then the first thing that I will do, if your Honor will permit me will be to put in a letter of the 5th October, 1903, from the witness to the Manager of the Merchant's Bank, a letter of the 6th October from the Manager of the Merchant's Bank to Mr. Macaulay in connection with the Shawinigan Power Company.

WITNESS: No, that is about the right to overdraw.

MR. SHEPLEY: Yes, about the right to overdraw. Then we will have a copy made later and return you the original. That will be exhibit 617, it is in connection with the overdraft. Then Mr. Macaulay also gave me three letters from himself to Mr. McKinley, or copies of three letters, one 18th December, one 26th December, and one 30th December, 1902, which will go to complete the record in respect of this traction matter. These will be one exhibit, (Exhibit 618).

Q.—Then a fourth letter from Mr. ——— who is the A. L. Rich Company? The Decatur enterprise fell within the scope of the Illinois Traction Company later? A.—Yes.

Q.—Then it is quite right that we should take that up now. On the 10th February, 1903, a firm of brokers, living where? A.—Cleveland.

Q.—Wrote to you introducing the Decatur and Springfield Railway to your notice, and an enclosure you gave us was a sort of prospectus of the enterprise? A.—Yes.

Q.—We will just see what the letter says, "We are sending you under separate cover, plan and report in connection with the Decatur and Springfield Railway." (Reads.) That is a new trust, the Hominy Trust? A.—Yes.

Q.—Then comes the enclosure which purports to be a confidential report from Mr. Crankshaw upon the road and its equipment? A.—Yes. I may explain that this road—

Q.—You sent a copy of this letter to Mr. McKinley in a letter from you

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on the 13th February? A.—And wrote him more fully later.

Q.—And on the 18th February you wrote him more fully, enclosing him a copy of the prospectus? A.—Yes.

Q.—And on the 16th February you acknowledged the receipt of the letter to the firm of brokers? A.—Yes.

(Three letters, with the letter and report attached, exhibit 619.)

Q.—Show us first on the geography where the thing is? A.—I will explain that the proposed Decatur and Springfield Railway was one that these people were arranging to build from the city of Decatur to the city of Springfield on exactly the line which was afterwards built by the Illinois Traction Company under the name of the Illinois Traction Company, and it was to include that interurban line of 39 miles, and also a local street railway in the city of Decatur. The getting of that letter was very unwelcome to us, because Mr. McKinley and we had been in private conversation, looking forward to the fact that probably sometime the Illinois Traction Company would build this, and to our annoyance, as you will see by the letter, I found these people were getting ahead of us.

Q.—He speaks of this as an old established road at the time? A.—That is part of it, the part he refers to was the street railway in the city of Decatur. McKinley and some associates of his already controlled the gas and electric company, in the city of Decatur, but did not at that time control the street railway, which was owned by the Shellabarger family.

Q.—Then you had been looking forward to extending your enterprises in the very direction and over the very territory that this proposition covered? A.—Precisely. When I say "we" I mean Mr. McKinley and ourselves jointly.

Q.—Then what followed upon that? A.—They wished us to participate in supplying them funds on certain terms, but we would not agree to that. We declined. The only direct result of that was to perhaps hasten a little bit our movements in the direction of covering that piece of territory.

Q.—Just let us wait for a moment. Then that was at that time merely an episode, and apparently it was not until the following December that you and McKinley ripened your plans? A.—It was not until the following December that they reached completion, but in the middle of that summer of

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1903 steps were taken to cover that ground. A company was incorporated by Mr. McKinley called the Decatur, Springfield and St. Louis Railway Company, which bought—it was only a temporary company; it was originally intended to cover very much the same field as this Decatur and Springfield had covered—it bought the local street railway from the Shallabergers, and it began to build the line from Decatur to Springfield in the way that was proposed. Later on in that year, in December of 1903, the plans were changed on account of legal difficulties. Under Illinois law it was found that there were difficulties in the way of the company owning a line that would be built under the General Railway Act, as all the interurban lines were built, and a street railway incorporated under the Street Railway Act, and also a light and gas company. The laws of Illinois did not permit that, and therefore the proposition was divided up into three parts, the one the Decatur Railway and Light Company, which included only the Decatur Street Railway and the Decatur gas and electric plant, and then a new company was formed called the Illinois Central Traction Company, which built the line from Decatur to Springfield, and then the old company known as the Decatur, Springfield and St. Louis had its name changed, the word "Decatur" being dropped out, and the name being changed to the St. Louis and Springfield, and it undertook to build the line from Springfield south. That division was made in December, 1903.

Q.—From Springfield south? A.—Yes.

Q.—That is in the direction of St. Louis? A.—Yes, here is St. Louis.

Q.—That was in addition to the proposition that had been covered by the Shellabarger people? A.—By the Rich people. The Shellabargers were selling out to the Rich's. It was further than theirs in that it contemplated going some distance south, which theirs had not contemplated.

Q.—Was that enterprise the next in order of the enterprises which afterwards fell into the Illinois Traction Company? A.—It was.

Q.—It was the next in order? A.—Yes.

Q.—That it followed upon the road we were discussing, the enterprise we were discussing yesterday? A.—Exactly.

Q.—In order of time? A.—Originally they were all under one name for a portion of the year.

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Q.—I think I found in your stocks and bonds record a record in December, 1903, of the Decatur Railway and Light Company bonds, a record of the Illinois Central Traction Company bonds, and what was the others? A.—St. Louis bonds.

Q.—Did you take those bonds that year? A.—I think so.

Q.—Under what name? A.—The St. Louis and Springfield.

Q.—Yes, you are quite right. The St. Louis and Springfield bonds, which we will deal with in a moment. I gave you certain dates for correspondence with Mr. Judah in connection with the formation of the parent company? A.—The request for those letters came just as I was leaving the office, and the stenographers are making copies.

Q.—We will leave it for a time. This correspondence I have here, given me yesterday, commencing with your letter to McKinley of 2nd March and taking in his letter to you of the 12th March, his letter of the 16th March, his letter of the 30th March, your letter of the 9th April, his letter of the 11th April, yours of the 14th April, his of the 2nd May, yours of the 4th May, yours of the 6th May, are all letters dealing with the brokers' negotiations towards the development of your enterprises? A.—Yes.

Q.—You had some others this morning? A.—Yes.

Q.—Then I will add to these before making them an exhibit your letter of the 6th May, and his letter of the 9th. These are in order you say? A.—Yes.

Q.—And certain other letters? A.—Yes.

Q.—I will put these all in one docket and make the whole docket an exhibit (Exhibit 620). That is all the correspondence in connection with these enterprises during that year? A.—And the next year also I think, or part of the next year.

Q.—Now tracing your investments, the Decatur Railway and Light Company bonds, you took \$281,000 of those at 85? A.—Yes.

Q.—Is that all you took? A.—No, we took in all \$600,000.

Q.—Decatur Railway and Light Company? A.—Yes, but a large portion of those were not paid for until 1904. In all we took exactly \$600,000.

Q.—Was that the original arrangement? A.—Yes.

Q.—That was the original arrangement that you should take \$600,000? A.—Yes.

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Q.—Give me the lots in which you took them, and I will follow them in this? A.—We had the Trust deeds here yesterday but they are not here just now, we will get them. As I mentioned, the original intention was that the whole line from Decatur through St. Louis and down as far as Gerrard, and afterwards as far as Carlanville, including the local Street Railway in Decatur, was intended to be one company, and that company was incorporated under the name of the Decatur, Springfield and St. Louis, and issued its bonds to us as the work progressed, and we advanced during 1903 to that company a total of \$692,000, for which we got \$814,000 of bonds; in December of that year, however, as the correspondence there speaks of it, it was decided to break that company into three, one continuing under a change of name, the original company continuing under a change of name from Springfield south, and then the Decatur Railway and Light Company, and the Illinois Traction Company, the amounts that had been expended in the course of the year on construction exclusively I think were then divided between these three properties, as they had been spent, and then we got bonds for each of those, and of the amount that had been spent in that way during 1903, the amount that had become from the Decatur Railway and Light Company was \$259,500, calling for bonds of \$305,294.14.

Q.—How did it call for bonds to that amount? A.—At 85, the bonds being figured on the basis of 85.

Q.—Even that does not give you the— A.—No, that was just the first item.

Q.—How were you doing during the work of construction? Were you trusting them for bonds? A.—No, we had bonds. We had bonds for the Decatur, Springfield and St. Louis Railway Company, temporary bonds.

Q.—You were just getting the temporary bonds of the large company, before its resolution into elements? A.—Exactly.

Q.—Would they get the bond upon a certificate of work done, or would they have the bond and lodge them with you and get the money to do the work? A.—They had bonds and lodged them with us, and we advanced the money as the work progressed. We always had a surplus of bonds.

Q.—What certificates did you get? A.—We trusted very largely to Mr. McKinley and the officers of the Trac-

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tion Company supplied us information, and as far as possible all the large amounts were paid direct to the people from whom they bought supplies; for instance we told them that everything they paid for rails and everything of that kind,—we saw that the money went direct ourselves.

Q.—What was the total issue of bonds placed in your hands—I mean of the original company? A.—It was either \$900,000 or one million dollars, I forget which.

Q.—There were bonds issued before the work was done and handed to you? A.—They were issued in several lots from time to time as the work went on.

Q.—But always came into your hands in advance of the work being done? A.—Precisely.

Q.—Coming into your hands in various lots? A.—Yes.

Q.—You would hold the bonds, and upon it being reported to you by the people who were doing the work, that they had done a certain amount of work, or were entitled to a certain amount of money, you would advance that sum of money? A.—Yes, but I would like to mention that we had P. S. Ross & Sons of Montreal, the auditors of our own company, appointed auditors of the company, and sent them out at intervals to oversee everything themselves, and check up everything, so that we had the benefit of our own auditors checking everything.

Q.—Had you an independent engineer overseeing the work? A.—No.

Q.—What you relied upon then was two things: first, the integrity of the people who were doing the work, and secondly, the supervision of your own auditors? A.—And Mr. McKinley, we trusted very largely to Mr. McKinley. He had an equal stake in the whole company with ourselves. He owned one-half of the entire capital stock, and it was to his interest just as much as ours to see everything was done correctly. McKinley himself did not spend one dollar of—

Q.—Who owned the other half of the stock? A.—The Sun Life Company and the Montreal people.

Q.—The proposition involved your getting one-half the capital stock— A.—I am speaking of the Illinois Traction Company.

Q.—I am not speaking of that at present, I am speaking of the original company out of which the others sprung? A.—Mr. McKinley owned

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one-quarter of that. We owned three-quarters, but the entire four quarters were deposited with us as security in the meantime.

Q.—You had the whole stock deposited, the ownership, subject to that, being a quarter in McKinley and three-quarters in you? A.—Yes, and in reality this was only an extension of the Illinois Traction Company.

Q.—Then in respect of that stock, that was like the other stocks we have heard about in this connection. It was stock which was issued together with the bonds? A.—Exactly.

Q.—And this of course does not appear in this account of securities of yours, because it was bonus? A.—Not here, but it appears in the list of bonus stock, and it appears here in our books. I can show you the entry in our books here.

Q.—I do not doubt that at all. Indeed I know it is there. Well then, in that way you had expended you had said, \$814,000, or had bonds to the extent of \$814,000? A.—We were entitled to bonds to the amount of \$814,000 in return for an expenditure of \$692,164.07.

Q.—And you were dividing that into its component parts. In 1903, you had earned \$259,500, and when did you expend the balance? A.—\$259,500 less an amount that Rollins of Boston, took, \$29,150, and then those amounts came from the Decatur Railway and Light Company.

Q.—That left \$233,550? A.—Then there was an amount of \$122,200, less \$7,791.81, the same way as what Rollins took. That was charged to the Illinois Central Traction Company. Then there was an amount of \$343,941.50, that was charged to St. Louis and Springfield.

Q.—These are the figures that I have here for 1903, Decatur \$281,000, for which you paid \$238,850? A.—That is right sir, but that includes a few entries made after the division of the properties. The properties were divided before the exact end of the year. That is the correct amount expended on the Decatur property up to December 31st, 1903.

Q.—And that includes certain small items you say of what nature? A.—Advances, just like other advances.

Q.—Then the Illinois Central I have \$132,000, on which you had expended \$112,200? A.—That is correct, in exactly the same manner.

Q.—And the St. Louis and Springfield \$410,000, for which you paid \$348,500? A.—That is right.

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Q.—That is what was expended during that year? A.—Yes.

Q.—And those amounts were arrived at by the division you speak of? A.—Yes, with the addition of some other items advanced in the same way.

Q.—Can you tell me what was advanced in the following year, or what bonds you required. Take the Decatur first? A.—On the Decatur we advanced the whole of the balance necessary to make up the \$600,000.

Q.—That is you got bonds to the tune of \$319,000? A.—\$319,000.

Q.—I see some of those you paid as high as 90 for? A.—Yes.

Q.—How is that? A.—There was \$280,000 that we took at 90, under an agreement which is produced there with the shareholders of the Decatur Gas and Electric Company, they were taken in and the basis of the absorption of the gas and electric company was that no cash should be paid, but that they should get bonds, \$280,000 of bonds of the new company, and \$120,000 was it not—a certain sum of the stock of the new company, but they had to be assured that next year they could, if desired, sell those bonds at 90.

Q.—You mean by next year, 1904? A.—1904; that in 1904 they could sell those bonds at 90. That was part of the agreement, and we took all those bonds up at 90 in accordance with the agreement.

Q.—You guaranteed they would get 90 in 1904? A.—We guaranteed we would purchase them if necessary at 90.

Q.—And you implemented that by purchasing them at 90 in 1904? A.—Exactly.

Q.—For your own advances you always got bonds at 85? A.—Yes.

Q.—What is this document? A.—That is the Trust Deed. (Exhibit 621).

Q.—Then take the Illinois Central next. \$132,000 of bonds, for which you paid \$112,200. That is in 1903? A.—Yes.

Q.—Now take 1904, there are several entries there, and I shall have to ask you to give me a little explanation with regard to them. The first is W. B. McKinley, \$1,073,211.39, for which you paid \$912,229.66. Why these odd amounts? How is that. A.—Because that was the amount paid on construction. We advanced the money as work progressed and we were entitled to certain definite amounts of bonds.

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Q.—Did you get bonds in those odd amounts? A.—No, we always had bonds in excess of the amount we advanced.

Q.—For instance what did you actually hold there? A.—We always had bonds—I do not remember how much—but we had bonds considerably in excess.

Q.—How did you adjust that? Did you pay the difference? A.—No. The whole or a large part of the issue of—excuse me till I ask a question and find out.

Q.—Certainly find out about it? A.—The amount that was authorized to be issued on account of the entire line from Springfield to Decatur was \$1,300,000, and we had that entire amount of bonds in our possession.

Q.—You had the whole \$1,300,000? A.—Yes.

Q.—What was the division between you and McKinley of that, or between you and anybody else? A.—I do not remember how much McKinley took, but he took a considerable amount.

Q.—Was there anybody else in the taking besides you two? A.—E. H. Rollins and Sons of Boston took \$45,000. Mr. McKinley I am told took none at first, but afterwards exchanged \$50,000 of the Danville, Urbana and Champagne bonds for \$50,000 of these, so as to have an interest in it.

Q.—Who was entitled to the balance over the \$45,00? A.—The Illinois Traction Company. They were only entitled to give—

Q.—That is the parent company? A.—Yes. We only held these bonds as security for ourselves, and as trustees for the Illinois Traction Company in reality, to hand back any amount that was not really required at the end.

Q.—Then it was you who were financing the whole proposition? A.—With the exception of \$50,000 by McKinley; as far as I know that is the amount, and \$45,000 by Rawlins.

Q.—The \$50,000 by McKinley was afterwards? A.—During the course of 1904—in January, 1904.

Q.—But that was not the original arrangement. By the original arrangement you were to find all the money? A.—No, McKinley was to put in \$200,000. That was the original arrangement, but afterwards on account of his putting money into other things, he only put in \$50,000. Originally he should have put up \$200,000.

Q.—And he exchanged that for bonds in the Danville, Urbana and Champagne? A.—Yes. Excuse me,

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another man, Mr. S. L. Nelson, took \$6,000.

Q.—Then you would be entitled, if there were \$45,000 to Rawlins, \$50,000 to McKinley and \$6,000 to the other gentleman you speak of, \$101,000 altogether—that leaves of the issue of \$1,300,000 just \$1,199,000? A.—That is right I think.

Q.—What did you hold? Did you hold \$1,199,000 of bonds when you made this entry, \$1,073,211? I want to get at your method with regard to it? A.—We held the whole amount. We would hold \$1,199,000, assuming your figures are correct, and I think they are.

Q.—And you hold the whole of that? A.—Yes.

Q.—And your position in holding that would be that you were trustees for these parties with respect to this amount? A.—Yes.

Q.—And trustees for the Illinois Traction Company for any balance? A.—Yes. In our vaults we have a place for bonds that do not belong to the company, a separate box, and anything that we have not yet earned by advances are put in there by themselves, and whenever we would advance any money so as to entitle us to any more, we would take out bonds from the box where we placed the bonds which did not belong to us, and would transfer them to the box which contained the bonds which did belong to us.

Q.—What transfer have you made in connection with this particular lot of bonds, or what transfer did you make when you had earned \$1,073,211? What bonds did you transfer from the one box to the other? A.—We would transfer the exact amount that was required, except that we would necessarily put in an even thousand, because the bonds are in even thousands, and you would not break them up.

Q.—Would you take an even thousand and below or an even thousand above? A.—Even thousand above every time.

Q.—In respect of that last thousand and dollars of bonds, you would still continue to be trustees of a fraction of that for the parent company? A.—Precisely, but we never took credit in our books for any more than the exact fraction.

Q.—What is this next entry in the account here, Illinois Central Traction Company bonds, McKinley eighty-five, \$56,000, Nelson par, \$16,995? A.—That is \$56,000—

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Q.—The bracket of McKinley and Nelson should only be opposite the \$56,000? A.—Yes. We sold McKinley and Nelson on exactly the same terms as we got it.

Q.—Don't you see the way you have entered it here, that \$56,000 is not in addition to your \$1,073,000, but it is taken out of that sum? A.—Precisely, that is right.

Q.—Then we have to revise what we gave a moment ago? A.—I presumed your figures were right. I had not checked this. We purchased \$1,073,211.39.

Q.—You advanced money sufficient to entitle you to that? A.—Yes.

Q.—At 85? A.—Yes, and afterwards sold to McKinley and Nelson, Nelson being a friend of McKinley's, and connected with some more traction companies out there, but not the Illinois Traction Company, in all \$56,000, on the same terms, which amount had to be deducted in reality from the amount we had advanced, and the amount we really were entitled to therefore was the balance.

Q.—We must revise the figures we had before and take \$45,000 only; that is the Rollins purchase, out of this amount of \$300,000. That leaves \$1,255,000, of which, subject to the \$1,073,000, the parent company was entitled to the benefit, and those figures will have to take the place on the record of the \$1,199,000, that we spoke of before? A.—Yes.

Q.—So much for that, and I will have to come back to those entries, but I want to check next the other one, the St. Louis and Springfield. What was the arrangement with regard to that? And then you will test the figures in your account by the terms of the arrangement that you are going to tell me now. That was the proposition which was added to the Rich proposition, the road going south from Springfield? A.—Yes, up to the end of 1903, we had advanced \$348,500, entitling us to \$410,000 of bonds. Up to the end of 1904,—

Q.—Just wait a moment. I want to get that. You had advanced how much? Just give me those figures again? A.—\$348,500, entitling us to bonds of \$410,000.

Q.—Was that work financed by you in the same way as the other? A.—Yes.

Q.—The whole issue of bonds,—what was it? A.—The issue of bonds authorized in that case was \$950,000.

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Q.—And from time to time those came into your hands in lots? A.—In this particular case the whole lot came.

Q.—The whole lot came at once? A.—Yes.

Q.—Did you rely similarly upon the the persons employed in the work and upon your auditors? A.—Yes.

Q.—And as the work progressed, you would hand out the money? A.—Yes, as far as possible, paying direct to the steel company, and so on, where the money was going.

Q.—I take that for granted as you told me in the other case. That was what the state of the thing was at the end of 1903? A.—Yes.

Q.—Who else was financing that besides you? A.—Nobody at all, except McKinley for \$50,000, and Nelson for \$6,000, exactly in the same way as the—

Q.—You were doing the financing to start with? A.—Yes.

Q.—And when you got your bonds you accepted transfers of some other security for the \$50,000? A.—For the \$50,000. The \$6,000, if I remember right, were paid in cash.

Q.—But from the beginning, the time when you became entitled to the whole that you ever became entitled to, you were advancing all the money that was being extended? A.—Yes. I would like to emphasize that these roads were in reality from their inception extensions of the Illinois Traction Company. They were not looked upon by either McKinley or ourselves as independent enterprises, but as extensions of the parent system.

Q.—I understand they were intended from the beginning to fall into the parent system? A.—Precisely.

Q.—Well then, we know how these propositions were financed. There was a parent company; that is, the Illinois Traction, but there was a grand parent, the Sun Life. It furnished all the sinews of war from the beginning to the end? A.—I would rather say we were one of two grand parents, Mr. McKinley being the other one jointly, and it must always be remembered that there was a lot of money in the old properties which were part of the property—I am speaking now solely of the extensions.

Q.—Then when 1904 came, tell me about 1904? What was the total expenditure? A.—Up to the end of

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1904, we were entitled to bonds of \$670,645.40, and if we deduct the amount—

Q.—Give me that again? A.—\$670,645.40, being the amount for which we became entitled during the year 1904.

Q.—I daresay we will make it all fit before we are through, but you have got extended— A.—Your figures will be \$56,000 more.

Q.—You have got extended \$516,000, and we may add to that the \$56,000. \$572,645.40 would be the amount of bonds you had earned? A.—Wait a moment. Leaving that \$200,000 and taking it up by itself, the amount would be \$519,645, to which we became entitled during the year.

Q.—Let me see how you arrive at that, because I do not make it that. There is \$10,000 the year before? A.—Yes, and \$929,000.

Q.—Give me what you earned in 1904? A.—Well, the difference between the two first; what we earned—

Q.—Where did you get \$929,645? A.—Here.

Q.—What are these? A.—The figures of the balance of the St. Louis and Springfield bonds.

Q.—You had expended in 1903 of the amount \$410,000? A.—Yes.

Q.—In 1904, you had \$519,645.40? A.—Yes, bringing the total up to \$929,645.40, which is the amount here mentioned.

Q.—Out of that there was \$56,000 to McKinley? A.—\$50,000 to McKinley and \$6,000 to Nelson.

Q.—In exchange for Illinois Traction preferred? A.—Then we sold to McKinley \$200,000 of those bonds, purchasing on exchange an amount of Illinois Traction preferred stock.

Q.—To the same amount, par? A.—No sir; on the basis of 60.8 for the preferred stock.

Q.—It says here par? A.—We sold the bonds at par, but we took in the preferred stock at the basis of 60.8.

Q.—Is that shown here? A.—Yes.

Q.—Where will it be? A.—It will be under the heading of Illinois Traction preferred stock. Here it is.

Q.—You got \$356,900 worth of Illinois Traction preferred? A.—Yes.

Q.—In the first place explain this; \$200,000 only goes out of St. Louis and Springfield? A.—Yes.

Q.—And \$216,995 goes into Illinois? A.—Yes, the balance is Illinois Central Traction, \$16,995. The \$200,000

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that is mentioned in the other place, and the \$16,995 under Illinois Central Traction added together make the \$216,995, the company paying for it partly in the one issue of bonds and partly in the other.

Q.—I think I see that, and I will put it in language as I can understand myself. You handed over \$200,000 of St. Louis and Springfield and handed over \$16,995 of Illinois Central Traction, getting in exchange for the two \$356,900 of Illinois Traction preferred stock? A.—Precisely. It was in connection with this entry that perhaps your Honour will remember that there was a misunderstanding and the company originally took up a larger amount which, however, the directors were—the company originally took \$580,000 on December 31st, 1904, and in the course of January following, early in January it was discovered that the company had made a mistake, that the directors were taking part of that, and the directors then took up their part, \$223,000, leaving only \$356,900 that the company in reality took up.

Q.—And those are correct entries to meet that state of fact? A.—We just left it altogether and put in the thing as it was.

Q.—In other words those are corrected entries? A.—Yes.

Q.—To meet the state of facts? A.—Yes, it was the old matter that was explained at Ottawa.

JUDGE MacTAVISH: It was discussed at Ottawa? A.—Yes.

MR. SHEPLEY: Q.—About that, what evidence is there in existence in writing of the rights of the directors in respect of this specific stock existing—I mean before the stock was taken by the directors? A.—In December, 1905, I thought it was very desirable that the whole nature of this transaction should be put on record and signed by the parties interested, just because we wanted to have it clear for posterity, and this is the thing that was written up at that time and signed by all those interested, explaining exactly the nature of the transaction.

Q.—Will you let me read it because I can take it better that way than listening. This is a copy of a document purporting to be signed on the 7th December, 1905, by Mr. Robertson Macaulay, Mr. S. H. Ewing,

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Mr. Abner Kingman and Mr. J. R. Dougall? A.—We produce the original, but that is an exact copy.

Q.—But that is the time when the document was prepared? A.—Yes.

Q.—A long time after the transaction itself? A.—Seven months, isn't it or 8 months?

Q.—It depends upon when the original transaction took place. I supposed it took place on the 31st December 1904. A.—And was finished in January.

Q.—And at that time there was no writing between the Sun Life and the directors who took shares in that stock. A.—Yes, there was a letter from Mr. Kingman, one of the directors, in December, before this thing went through, stating that he wanted to take some of that issue.

Q.—Is that the letter referred to in Mr. Blackader's report, where he says one of the directors had given him notice? A.—Yes.

Q.—He was the only director who did give a notice. A.—He is the only one who gave a notice in writing.

Q.—Is that notice extant still? I want to see that. That is the only notice in writing. A.—Yes it is not here, but we can get it.

Q.—You will have it during the course of the day, and that will be quite sufficient for my purpose. A.—It was never considered necessary to give a notice in writing. It had never up to that time been done in any case.

Q.—I want to know what position the company was in, if when you had loaded yourself up with all this stock, these directors had said, we don't want it. A.—Well, there was only an interval of a few days between the two. If any thing had transpired in the meantime to change the position of affairs we would not have allowed them—

Q.—Do not say an interval of two or three days; you had been for months and months advancing this money. A.—No, we had not advanced one solitary cent until December 4th, in connection with this deal in which the directors took a part. Not one cent.

Q.—But this stock was all earned by the money you had been advancing? A.—No, it had no connection with what had been advanced until that date. It was a separate transaction absolutely by itself.

Q.—It was the preferred stock of the parent company. A.—This was a transaction by which Mr. McKinley as

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an individual offered to sell a certain amount of stock which he as an individual owned and held as his own private property, to the company or the directors, he didn't care which, in exchange for a certain amount of bonds. It had no connection of any kind whatever with these advances which the company had made, except to the extent that Mr. McKinley had himself earned these things by his share of the profits in deals that had gone by, chiefly in connection with the Danville Urbana and Champagne property; that is how he has got it.

Q.—I do not want to criticise your view too closely, or that you should criticise mine too closely, but you see that the \$200,000 of St. Louis and Springfield bonds which you exchanged for this stock, you had acquired by the advancing of money. A.—Yes.

Q.—Your own money? A.—Yes. •

Q.—Without any arrangement with the directors that they were to share in anything that you earned with regard to that. A.—Yes, but they were bonds that we had bought by advancing money at 85, and we were very glad indeed to sell them at par.

Q.—The directors themselves had no interest whatever as directors or individuals in the bonds you so held. A.—Would you mind repeating that.

Q.—Had the directors any personal interest whatever in the bonds of the St. Louis & Springfield which you had acquired by advancing money? A.—No, but I would like to point out that there was no connection at all; the fact that we had bought those bonds with money, and the fact that Mr. McKinley had that stock, there was no connection between those two things.

Q.—We will confine it to this \$200,000. The company had a certain amount of bonds of the St. Louis & Springfield road? A.—Yes.

Q.—Those bonds belonged to the company and nobody else, and no director had any personal interest in them whatsoever. A.—Several directors had blocks of their own bonds of the same interest.

Q.—They had no interest in the \$200,000? A.—No.

Q.—That is all I care about. Then the money which had purchased the \$200,000 had all been advanced by the company? A.—Yes.

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Q.—Then the company was proposing to exchange those \$200,000 of bonds for certain traction preferred stock. A.—Those \$200,000, but Mr. McKinley expressed himself in writing as being perfectly willing to take any bonds of any of the companies. He did not pick out these bonds and say he wanted them, he said any bonds.

Q.—Never mind what he was willing to take, this is what you gave. A.—**Yes.**

Q.—Let us stick to that. Then how did the directors become interested in the transaction by which you were acquiring preference stock? A.—When this proposition came before the Board.

Q.—They had none of the consideration you were going to give? A.—Yes, they had some of the same issue.

Q.—But none of the consideration you were going to give? A.—I am afraid you will have to let me explain it, Mr. Shepley, because we will get twisted if you do not.

Q.—I do not want to twist you. I want to see whether there is anything wrong about that. They had no share in the consideration which you were about to give to the Traction Preferred? A.—They had no share in the \$200,000, but they did have a share in the balance if you choose, because there was a further amount given besides this \$200,000. This \$200,000 was never reversed, therefore we don't need to discuss it at all. There was no reversal of it at all, it is only in regard to the excess.

Q.—The excess over the \$200,000 was what they were interested in? A.—Yes.

Q.—How did they become interested? A.—By taking up part of the Danville, Urbana & Champagne bonds.

Q.—No, the St. Louis and Springfield. How did they become interested in those bonds? A.—They were not interested in any of them.

Q.—How did they become interested in any St. Louis and Springfield bonds? So far as you have told us I see no iota of an interest in those bonds? A.—They were not interested.

Q.—Then you were proposing with those bonds to purchase Illinois Traction Preferred? A.—With those bonds and Illinois Central bonds, because it was not one issue, it was two issues of bonds, part of one and part of the other.

Q.—Then the extent with which you were purchasing with St. Louis and Springfield bonds, leave the other out

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for a moment, we will come to that again if you wish to do so, but I think one will illustrate both; they had no interest in the St. Louis and Springfield bonds and you were proposing to exchange those bonds for a certain preferred stock in the other company? A.—Yes.

Q.—Now, what I ask you is, how did the directors become interested in the subject matter of that purchase, when they had no interest whatever in the subject matter of the consideration for the purchase? A.—Because the question did not come before the Board in the form in which it is being put to me now.

Q.—Am I not putting it in the form exactly to test the question? A.—I don't think you are putting it in a correct form.

Q.—I come to you with \$50 to buy something from you and I pay you my \$50 to buy that very thing, and then Mr. Tilley comes along and says, "Part of that belong to me." I want to know how he gets the interest? A.—The difference is that you are saying you come to me to buy some definite thing and Mr. McKinley did not come to us with that definite proposition. He came to us with a proposition that he was willing to give that stock and accept any of the bonds of the system.

Q.—You are giving the converse, because you were going to buy a definite thing, Illinois Traction Preferred, you were the purchaser.

MR. R. MACAULAY: We were not the parties who originally proposed to buy that stock. Mr. McKinley held that stock and wanted to cash that stock and he said he did not care whether we bought it or not, but he thought we were under obligation—that is he thought we would come to his assistance. He was the one who was the proposer, the seller. We did not propose to buy anything from him, he proposed to sell to us.

Q.—That is what I was saying to Mr. T. B. Macaulay; you were proposing to go and buy from him a definite thing, Illinois Traction Preferred? A.—No, he was proposing to sell to us.

Q.—And you were the buyer? A.—Yes.

Q.—And paying a certain consideration? A.—Yes.

Q.—And that consideration belonged to you and not in any sense to the directors? A.—It would belong to us

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if we paid it and to the directors if they paid it. Mr. McKinley made this proposition; he said he was willing to accept bonds of any of the new companies, as he put it, of the system. I think if you will permit me to state the facts and make an explanation, it will clear the whole atmosphere.

JUDGE MacTAVISH: If you will answer the question first then you may explain your answer to any extent that you consider necessary? A.—That is exactly what I have tried a number of times, your Honor.

MR. SHEPLEY: I do not think Mr. Macaulay will complain that I have not let him explain. As a rule I want to do that.

JUDGE MacTAVISH: Let the explanation follow the answer.

MR. SHEPLEY: I want to know by what process the directors became interested to any extent in what you were paying to McKinley for this Illinois Traction Preferred. A.—They were not interested, as I have already said a number of times, at all in that. Now, I think I have answered your question?

Q.—Yes. A.—Then with your permission I will state the facts of the case.

Q.—Make any explanation you choose. I am perfectly willing that you should, as I always am. A.—Mr. McKinley came to us with a proposition to sell \$580,000 of the Preferred stock of the Illinois Traction Company, which he owned as his own individual private property. He said that he was willing to accept in exchange or as the purchase price therefor, bonds of any of the new companies of the Illinois Traction system to the amount of \$353,000 par value. This matter came before our Board in regular course. The directors were very favorable to the idea and decided to accept it. Some of the directors at that time said that they themselves intended to take part of this, so that the company would not be called upon to take the whole amount, part of this preferred stock, paying therefor as I will explain later on. This was, if I remember right, early in December.

Q.—Let me check you there, because you want yourself to have it accurate. That was on the 29th November, 1904, and the minute of the directors' meeting is in these words:—
"Illinois Traction Company's Pre-

ferred stock. Mr. McKinley offers to sell his \$580,000 of this stock for \$353,000, taking the bonds of the Illinois Central Traction Company, the St. Louis and Springfield Railway Company or some new road in payment at par. Approved." A.—That is exactly as I have stated it, only it was a little better because I said early in December, and in reality it was late in November. The matter, however, hung fire for a little while and was only closed up on December 31st. At that time, with the exception of Mr. Kingman, the directors had not stated definitely just exactly how much they wanted; Mr. Kingman had stated and had given a memorandum, stating that he was to take so much, but I don't think he stated the exact amount, he just gave a memorandum. The directors were looking to me to let them know when this would come up to be closed. I am reminded that during part of that time, in December, I myself was absent in Illinois. They were looking to me to let them know so that when the time came they could arrange it. Mr. McKinley would have been delighted to take cash instead of bonds; he would very much have preferred to take cash; it was not that he preferred bonds, but we did not care to give cash, we preferred to give him bonds. I, however, did not let them know, I overlooked the matter, or in some way at any rate I did not notify them and in the rush of matters at the close of the year on December 31st the company took up the whole thing and put the transaction through, as though it was going to take the whole thing itself. There was no cash changed hands at all, not a cent. Early in January, I think, it was discovered in the first week in January, by, if I remember right, the President or one of the directors; the President I think it was, came and asked me when this thing was going to be completed. I said, we have put it through, it was put through at the close of the year to close the whole thing up. He was very much put out at it having been done and blamed me quite strongly. The President had been one of those who intended to take up some of these things himself. He had been expecting to take this, and had been looking to me to notify him. When it came before the directors, the directors said: Several of us have been intending to take this and we think we ought to be still allowed to take it, even though it is a few days overdue; the fact that you have put

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these entries through no way changes the matter, there has been absolutely no change of any kind, nature or sort whatsoever of the position of things, not a sale has taken place of the stock, no new development of any kind whatever, and they said it was 'an error that you should take this whole thing up in the name of the company, now let us rectify that error. If you will permit me I would like at this time, as part of my explanation, to read this statement, which puts the whole explanation in a concise form.

Q.—It may go on the records, but I would rather you did not read it. However, if you wish very much to read it you may, if you like. A.—It puts the explanation in a concise form and is signed by all four directors, showing that it is not merely my statement but theirs. It was made at my suggestion, done by myself, with the idea that perhaps after we were dead and gone, this might come up and I wanted an explanation on record that any person could understand. "These entries do not represent a sale but merely a reversal of previous entries too hurriedly made. Several directors of the company had arranged to purchase part of the Illinois Traction Preferred stock, which Mr. McKinley was selling. The company and directors to all obtain the stock on precisely the same terms. Mr. McKinley was to sell in all \$580,000 of stock, taking as payment for the same \$353,000 of bonds of various traction companies. This was equivalent to paying 60.8 per cent. approximately for the stock, payment being made in bonds. As however these bonds had recently been bought by the company and the directors at 85 per cent. with a stock bonus, they were all really worth par, so that the stock really cost us much less than 60.8 per cent. as the bonds given in payment were really worth less than par. The arrangement was that the company should sell to such directors as had not already the required number of bonds." And I would say, right here, that a number of them had bonds.

JUDGE MAC TAVISH: What do you mean by "company"? A.—The Sun Life Company. The directors or a number of them, had considerable amounts of these bonds themselves, and did not need to buy any from the company, but that the company should sell to such directors as had not already the required amount of bonds 92½ per cent. and interest, cash, whatever they might require in bonds to

enable them to hand over to Mr. McKinley the bonds needed to cover the amount of stock they desired to purchase. 92½ per cent. was a very high price to receive in cash for bonds which had just recently been purchased at 85 per cent. with a large stock bonus. This price was selected because that price was being received from Messrs. Morris Brothers & Christiansen for Danville Urbana and Champagne bonds behind them and guaranteed of a well established road with proved earnings, having second mortgage bonds behind them and guaranteed by the other properties of the Illinois Traction system." Therefore, better bonds. "The Illinois Central Traction bonds at that time were those of a newly constructed line, not yet absorbed by the Illinois Traction Company and therefore not equal in saleability to the D. U. & C. bonds. Moreover the directors were to have enough bonds in addition to their own holdings on this basis to pay for their stock at 61, not 60.8. So that the company was really to receive a little better than 92½ for the bonds by the sale. Unfortunately a misunderstanding arose, owing to the directors not having been notified of the time when they should take up the stock, and the company in error took up the whole amount, that coming to the directors as well as that coming to itself. When this error was discovered reverse entries had to be made, covering the portion of the stock which was really being purchased by the directors, and was to be paid for by them. Such is the explanation of these entries so far as understood by the signers, the directors who were directly interested, and it is now placed on file as a correct explanatory record of the transaction." That is signed "R. Macaulay, Director, S. H. Ewing, Director, Abner Kingman, Director and J. R. Dougall, Director" I think that places the thing in a perfectly clear and proper light.

MR. SHEPLEY:—You preserved no record at the time in the minute of the directors meeting of the directors who expressed their desire to take part of this stock? A.—No, nor at any other. We had never done so.

Q.—You did not in this particular case, which is what I am dealing with at the moment? A.—No, neither then nor at any other time, in any other case.

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Q.—Are you able to say what directors said anything about it at the meeting? A.—There was a general talk, I don't know that any director stated positively just exactly how much he was going to take at that time. I think they did not.

Q.—Can you say that any director said specifically he would take stock at all? A.—Mr. Kingman certainly did.

Q.—Do you remember any other? A.—I think others did. There was a general talk that some of them were going to take it, but it did not come down to details because their idea was that the time for them to say just exactly how much they would take had not yet arrived and would not arrive until the time came for payment, and they looked to me for that. I would like to emphasize another point.

Q.—Before you emphasize anything else, please come back to my question. Do you remember a single director, except Mr. Kingman, who said definitely he would take any stock at all? A.—I don't remember who said definitely, but there was a general conversation.

Q.—From which you carried away the impression that some of the directors would want to take some of the stock? A.—Yes, I would put it just a trifle stronger; in which some of the directors did express their intention of taking some of the stock.

Q.—You can only be positive with regard to one, that is Mr. Kingman? A.—Yes, it was a general conversation.

Q.—A general conversation from which you took the impression that some of the directors wanted to take some of the stock? A.—Yes.

Q.—Then not only was there no ascertainment by record or otherwise of the exact directors who wanted to come in, but there was no record of the specific amount of each one? A.—No.

Q.—Then when the matter came to be closed up, what position would you, as an executive officer of the Sun Life be in regard to any Director who came forward and said, Now I want a thousand shares of this stock? A.—Do you mean if there had been no mistake made?

Q.—If he had come forward at the proper time, how would you have ascertained whether he was under any obligation to take any stock, whether he was one of those who had expressed the intention of coming in? A.—We would not have pressed him for

such a thing, because we would have been glad to have him take it, for several reasons. We would have preferred that the directors should take it up for two reasons in particular. In the first place we were over-invested in American securities, and the Insurance Department was finding fault with us for being over-invested, and therefor it was desirable that we should, in every way possible, reduce our holdings in American investments and any opportunity by which we could sell certain of our American bonds and therefore come nearer to complying with the law, was a thing we wanted to do. And any plan by which we would go more deeply into American securities was not one that was attractive to the company, no matter how good it might be on its merits.

Q.—This preferred stock was not being shown to the Government as an investment at all? A.—Yes, you will find it in the Blue Book.

Q.—Had you ever shown it to the Government in any return made at the time this transaction took place? A.—December 31st, you will find it there. We were making the return right then.

Q.—You had never made it a practice, you told me the other day, to return these stocks for which you had paid nothing? A.—But this is a thing where we would have paid something. We would have paid 60.8 for it.

Q.—In bonds? A.—Yes, but they cost us cash.

Q.—Then that would have been shown? A.—Certainly.

Q.—Then what was the other reasons? A.—The time had just come when we would have to settle how much we would show of over-investment in American securities. And we would have been glad of directors or any other friends to come in and take part of it and enable the company to come more closely within the law. The second point is that the company already had a large amount of that stock, six hundred odd thousand, if I remember right, without any further amount being bought by it, and had also a very large amount of the bonds as has already been brought out, of the system, and no matter how good it was we did not think it was desirable to put any more money into that particular investment or any more eggs into that one basket than was really forced upon us. If it had been a thing by itself we might have

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said, this is a thing very attractive, but when it had to be added to what we already had we said, even if it is an attractive investment we would rather that directors or any other investors would come in. Therefore, instead of a director having to prove that he had given notice, we would have said, if you will take it now, we will be glad.

Q.—Now, if it was not desirable to put any more eggs in this particular basket, all you had to do was to say to Mr. McKinley, we are not going to buy that stock from you; were you under any compulsion to buy from McKinley? A.—No, but it was a very desirable investment and we considered that—

Q.—That you would like some more eggs? A.—Well, it was a very good basket to get eggs in, we felt.

Q.—But the two things do not hang together? A.—Yes, excuse me.

Q.—In the first place you did not want any more eggs in that basket, but in the second place it was so desirable that you had to take them anyway? A.—It is quite consistent. In the first place our actual investment would not be increased if we made the exchange, it would not be a case of increasing our holdings. It would be an exchange.

Q.—It was either desirable or it was not. You said a moment ago that it was not desirable. If you want to change it I cannot complain? A.—Excuse me, my position is this: We had here by the directors taking this stock, an opportunity of reducing the number of eggs in the basket, if you choose, and we felt that was a desirable thing, that as we were over-invested in the United States and had already such a large amount in these securities, that any opportunity by which we could pull out part of the money in that case, was desirable.

Q.—It was either desirable to buy this preferred stock or it was not. Which do you say? I want you to say whichever you believe, but I want you to say one thing or the other. A.—It was desirable to make the exchange, but it would have been still more desirable to get cash and back out.

Q.—Then you say it was a desirable thing to get this preferred stock? A.—It was, emphatically, on its merits.

Q.—Desirable from the standpoint of your policy? A.—Yes, but not as desirable as reducing the amount of our American investments.

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Q.—Was it as desirable as leaving the thing untouched and letting Mr. McKinley keep it? A.—No. Letting Mr. McKinley keep it would not be as desirable, because if we were to have just the choice of keeping the bonds or taking the preferred stock, without altering at all the amount of our American investments, then we would say it was desirable to make the exchange because we considered the stock worth more than the bonds. But that is not the only question; the question is whether it was not more desirable to try to comply with the law and reduce the volume of our American holdings and get cash by letting the directors assume that and buy bonds from us to carry out the transaction.

Q.—It was an inherently desirable proposition, I understand you to say. Do you want to modify that at all? A.—To a certain extent.

Q.—Well, it was desirable. A.—It was desirable.

Q.—On the merits, in your own language? A.—It was desirable to a certain extent, from the standpoint of the company or we would not have done it but it was not as desirable as if we could have reduced the amount of our American holdings by getting cash for our bonds.

Q.—It was a desirable proposition in itself from the standpoint of the company. We have got that far. Now, may I take it that it was desirable financially from the standpoint of the company? A.—Everything has to be qualified, everything is comparative. It was desirable if we could not do better. It was not as desirable if we could have done better.

Q.—It was more desirable from a financial standpoint than leaving the stock where it was and not acquiring it? A.—It would not have been desirable if we had had to pay cash. But as we did not have to pay cash, it was desirable, but not as desirable as if the directors or others had taken it off our hands and paid cash.

Q.—It was in itself desirable from the financial standpoint that you should acquire that stock? A.—In the comparative sense. We are comparing two things.

Q.—I am comparing these two things; leaving that stock unpurchased or purchasing it as you did. I want to know which is the more de-

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sirable. A.—Just stated in that respect and no further, yes.

Q.—It was desirable to purchase? A.—Yes.

Q.—And was it desirable financially to purchase? A.—Yes, but not as desirable as getting cash.

Q.—Then let us go back to the main current from which we have been diverted by this digression. If any director had come forward and made a claim to take any quantity of that stock by virtue of what had transpired at this directors' meeting, do you say you would have felt bound or been desirous of yielding to him? A.—If he had come at the right time, I think so.

Q.—Would you let him have it all? A.—I think so. I cannot say positively. The subject did not come before me in that light, but I think, speaking from my mind now, I would have said yes, because we were being criticized for being over-invested in the United States and we wanted to comply with the law.

Q.—Then if instead of being a desirable thing, the directors had changed their mind and said, we do not want it, there was no possibility of forcing it upon them? A.—No. You are speaking now, after it had once gone through?

Q.—Before it went through, after this meeting. This meeting did not make any bargain. A.—No.

Q.—There was no contract? A.—No.

Q.—Nothing that you could enforce or that could be enforced against you? A.—No.

Q.—Then I will put in this memorandum of the explanation that you have given with regard to it. (Exhibit No. 622.)

MR. SMITH: I think it is desirable to ask here, whether the directors paid back with their own money or any portion of the company's money? A.—The directors paid for it with their own money and not one cent of the company's money was used in any shape, manner or form.

MR. SHEPLEY: I have assumed that. I am not casting any doubt upon it. Then let us get back to this transaction; we were dealing with the \$1,300,000 of these bonds and I think you have pretty well cleared up all I wanted to find out with regard to that. Now, it is manifest, I think, from the correspondence, and

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also from the account of your stocks and bonds, that in the interim the parent company had acquired its stature and got its final shape? A.—Yes.

Q.—Now, just give us an outline of the constitution of the parent company. First, what was the capital stock? A.—The capital stock of the parent company originally was \$3,000,000. Then it was known as the Illinois Railways and Light Company. The name was changed, if I remember aright, in the autumn of 1903 to the Illinois Traction Company.

Q.—It was still a New Jersey Corporation? A.—Yes.

Q.—Then was the capital changed before the abandonment of that corporation and the formation of another? A.—When the Decatur Railway and Light Company was absorbed the Decatur Company had a capital stock of \$1,300,000. The Illinois Traction Company absorbed it on the basis of guaranteeing its bonds and giving 60 per cent. of Illinois Traction stock for 100 per cent. of Decatur Railway and Light stock, and the stock of the Illinois Traction Company was increased by 60 per cent. of \$1,300,000. That made the capital stock then of the Illinois Traction Company \$3,780,000, but the authorized amount was \$4,000,000, if I remember aright, the balance being in the treasury of the company.

Q.—Then this \$780,000 was in a rather different position from the \$3,000,000; the \$3,000,000 had not involved the putting up of money at all, while the \$780,000 involved the transfer of certain franchises on property. A.—The \$780,000 was the amount of stock given for the purchase of \$1,300,000 of Decatur stock.

Q.—And carried with it the ownership of the assets of the Decatur company? A.—Yes.

Q.—That was the condition of things down to that time. Now was there any other change in the stock before the alteration in the charter? A.—To the best of my recollection there was no other change.

Q.—Then what was the scheme or the polity so to speak, of the Illinois Traction Company? It issued no bonds. A.—Its policy was, or the policy rather of those who controlled it was that it should own all the stock of all the subordinate companies that might be operating, that it might control in the State of Illinois. That it should not be an operating company,

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but should be exclusively a stockholding company. That all the operations of the Traction Lighting and other companies should be carried out by and in the names of the subordinate companies themselves, these subordinate companies issuing their own bonds but having all their stock owned by the parent company. The parent company not issuing any bonds itself and having only its preferred and common stocks.

Q.—I think you have told me in outline just what I wanted to have upon the record. Then is it too much to say that the Illinois Traction Company, the parent company with its characteristics, whatever they were, was largely the creature of your company, the Sun Life? Didn't you mould the body of it and breathe the breath of life into it? A.—We assisted at its birth but we were only acting jointly with Mr. McKinley. Mr. McKinley at the start, as you will remember, had exactly an even amount of interests with us and Mr. McKinley has continued to be its President ever since. While I admit that we have a large interest in it, of which we are very proud, yet at the same time it would be wrong to say—

Q.—It is more than the pride of a step-mother. A.—It would be wrong to say that we were interested except in the way of being interested jointly with Mr. McKinley.

Q.—Who conceived the idea? A.—Mr. McKinley, I think.

Q.—Or Mr. Macaulay? A.—I don't think so.

Q.—Have you got those letters to Mr. Judah yet? A.—Yes.

Q.—Mr. Judah was concerned professionally in bringing the company into existence? A.—Yes, whether the initial idea was started by Mr. McKinley or arose in conversation between Mr. McKinley and myself and some of our directors, I don't know, but it started jointly among us. How it absolutely originated I can hardly tell.

Q.—With your permission, Mr. Macaulay, I will sandwich your letters to Mr. Judah between his letters to you and put those upon the records. I suppose this correspondence indicates in a general way, the part you were taking in what was going on? A.—Yes, and the other correspondence I have produced will throw a good deal more light upon it.

Q.—This, however, is the correspondence directly between yourself and the gentleman who was charged

with the actual doing of the business. I will make that one exhibit (Exhibit 623). You would not be surprised if through the whole of that correspondence between yourself and Mr. Judah, it would appear that you were in control of the whole thing. A.—I would be very much surprised, because I think you will find that throughout the correspondence it will be recognized that it was Mr. McKinley and we jointly. That is the position. I don't think you will find anything inconsistent with that position.

Q.—Then will you be willing that the correspondence should speak for itself? A.—Yes, unquestionably. I may say the correspondence with Mr. Judah was largely left with us because we were the ones to be satisfied with the bonds and everything of this kind, and Mr. McKinley said "Choose your own lawyer and your own trust company and look after the whole thing to your own legal satisfaction and you will satisfy me."

Q.—Then Mr. McKinley having, with your assistance, brought this company into being, what about the stock and the ownership of it? Was it to be divided into classes, the stock? A.—No, it was all common stock originally. Mr. McKinley got one-half and we and our associates got the other half of the original \$3,000,000.

Q.—You and your associates and who else? A.—The other Montreal persons who took part.

Q.—Including your directors. Then when did the idea become realized of becoming a Maine instead of a Jersey incorporation. You have told us why, but I would like to get the date of that? A.—I have told you about it.

Q.—Yes, I thought that went upon the record? A.—No, I don't think so.

Q.—Mr. Macaulay has been good enough, apart from his being in the witness box, to make certain explanations to me, and I have been very much obliged to him for it. He thinks it was in one of these explanations that he explained why the Jersey Company was discontinued and the Maine Company substituted. I thought it was in the witness box. If it has not been stated I want it stated, of course. If you will tell us when and why? A.—Somewhere about April or May, I think, of 1904, it was decided to change, to reincorporate as a Maine, instead of a New Jersey Corporation, the sole and only object being to escape the tax of the tenth of one per

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cent. which New Jersey imposes upon all corporations. That tax came to about \$3,800 and we could see if the corporation grew as it was growing, that this tax would soon become a heavy amount, and as Mr. McKinley was the one who brought the whole matter to our notice, you will find a letter from him on that subject. He did not see any reason in the world why we should throw away that amount of money, and with the company in its earlier stages it would be easy to re-incorporate under the laws of Maine, since that State had recently passed laws very favorable to corporations, and that would give the company quite as good a charter as under the New Jersey Act, and therefore the arrangement was made whereby the Illinois Traction Company was incorporated under Maine laws and it took over absolutely everything belonging to the Illinois Traction Company of New Jersey and substituted dollar for dollar, its stock for the other stock and stepped into the shoes of the other corporation.

Q.—That was, you think, in the early part of 1904? A.—Yes.

Q.—That is near enough for all practical purposes. That would leave you with a capital stock of \$3,780,000 issued, but it authorized \$4,000,000? A.—I think so. Mr. McNutt tells me that the transfer of the Decatur property to the Illinois Traction Company did not take place till just immediately after the Maine incorporation. Perhaps that is so, but it does not affect it. It was either before or after it, but as a matter of fact we did not consider that the change from the New Jersey to the Maine Corporation was anything more than a formality to escape the tax.

Q.—The statement of the amount of the tax would seem to be against what Mr. McNutt said, that was \$3,780? A.—Mr. McNutt says it was \$3,000.

Q.—I don't think it makes any material difference. Then do you think you capitalized the new company at the authorized capital of \$4,000,000 of the old? A.—I think so.

Q.—Then when did you increase the capital stock and divide it into classes? A.—Mr. McNutt tells me, it was incorporated with a capital stock of \$4,000,000, of which \$1,600,000 was preferred and \$2,400,000 was common.

Q.—Was that a change? A.—No, I think not.

Q.—You think that was so with the Jersey Corporation? A.—I won't be

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positive, but I think so. Mr. McNutt tells me, and it is very likely he is right, that the New Jersey incorporation was at \$3,000,000, and that the absorption of the Decatur property was effected at the same moment that the re-incorporation of the Maine corporation took place. That the absorption of the Decatur property, instead of being before, was concurrent with the incorporation and was part of it, so that the Maine corporation in that case would absorb the New Jersey Corporation and the Decatur properties.

Q.—And then it was capitalized at what? A.—\$4,000,000, of which \$1,600,000 was preferred and \$2,400,000 was common.

Q.—Since that the capital has been increased? A.—Yes.

Q.—And what is it now? A.—The total authorized amount now is \$11,000,000, of which \$4,000,000 is preferred and \$7,000,000 common. Those are the authorized amounts.

Q.—Then I will pass by the intermediate stages; I want to get at your present holdings, and we will only take a very hurried sketch of the company since 1904? A.—Although the amounts authorized are as I have said, the actual amounts outstanding are \$3,274,300 preferred and \$5,822,000 of common, making a total of \$9,096,300, the balance being in the treasury of the company. The amount owned by the Sun Life at the present time is, preferred \$658,900; common stock \$3,625,400. Total \$4,284,300. The amount of total stock owned by other parties is \$4,812,000.

Q.—Divided into? A.—Preferred and common.

Q.—We can get the amounts of that by subtracting your figures from the total holdings of both classes. We will not take time over that. Then you have extended your list of subsidiary companies very largely? A.—In the sense that the Illinois Traction Company has extended, yes.

Q.—I meant that. Then let us have your little atlas again. First I will put in this statement of the stockholding of the Illinois Traction Company on the 15th September, 1906. (Number 624.) You have no doubt, a list of the subsidiary companies, and you can probably help us to lay them out upon the map? A.—If you have the names there.

Q.—Bloomington & Normal Railway Electric and Heat Company? A.—

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The Bloomington and Normal is the company that owns the local street railway in the city of Bloomington and Normal. They are practically one place. Bloomington, you will notice, is half way up that north-westerly line. It is one of the finest cities of its size I have ever been in. A population of 44,000 or 45,000. This company controls the street railway company and about half of the electric light business and half the steam heating business of the city of Bloomington and Normal.

Q.—Normal is a suburb of Bloomington? A.—Yes, about four miles out.

Q.—Then, I suppose, in accordance with the normal law of its existence, this company has issued bonds? A.—The subordinate company, yes

Q.—To the extent of what? A.—The Bloomington and Normal Company at that time had \$600,000 of bonds outstanding before it had anything to do with the Illinois Traction Company at all. Afterwards a new issue of \$450,000 has been put on to provide for part of the purchase price of the property by the Illinois Traction Company, the balance of the purchase price being paid for by the sale by the Illinois Traction Company of its own preferred stock at 87½.

Q.—Does that make a total bond issue of \$1,050,000? A.—I think so.

Q.—And your \$450,000 is subject to the first? A.—Yes. I would like just to say that I am giving as far as I can remember these things, but I speak subject to correction.

Q.—I shall be glad if Mr. McNutt will help you as much as you need. What holdings have you in these two issues of bonds? A.—Of the first issue we have none and never did have any. We own \$424,000 out of \$450,000 of the second issue.

Q.—Then you pretty well financed the whole thing? A.—The bulk of it, yes. And made a lot of money out of it, too.

Q.—Well, you financed it. I may remind you of some things you lost money in, after a bit, and they are traction propositions too. Then, take the next, the Consumers Light and Heat Company? A.—That is the company that controls the other half of the lighting and steam heating properties of the city of Bloomington. Not Normal. Just Bloomington, alone.

Q.—Does that belong to the Illinois Traction Company or is it controlled by it? A.—Yes.

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Q.—The Illinois Traction Company, I take it for granted, I won't ask the question in the case of every company, owns all the stock of these subsidiary companies? A.—I think it owns every share of every one of those companies.

Q.—So we need not come back to that again. Then the Consumers Light and Heat Company also issues bonds? A.—Yes.

Q.—What was that for? A.—For part of the purchase price of the property and we took the whole issue. We own that entire issue. It is a first mortgage issue.

Q.—You got the property, you mortgaged it for \$180,000, advancing the money yourselves and paid that money over to the owners. That is it, in brief, is it not? A.—No, I cannot remember the exact details, but the stockholders of that company were paid a certain amount of cash and the balance in preferred stock of the Illinois Traction Company.

Q.—This \$180,000 was the cash? A.—Yes.

Q.—And you advanced the whole of that? A.—Yes. And they got in addition a certain amount of the preferred stock of the Illinois Traction Company.

Q.—Then you got bonds placed by the subsidiary company when it was controlled by the Illinois Traction Company, to the extent of \$180,000, you paid cash for them, that cash was handed over to the original owners, so that the Illinois Traction Company became the owners? A.—Yes.

Q.—Perhaps I may ask you a general question. In most of these instances you got stock for your advances in addition to the bonds? A.—Yes, but in the case of the Consumers we got very little indeed, if I remember right.

Q.—We will get those assembled in one account later on. Then the Consumers Heat and Electric Company seems to be a small concern. A.—That is a sub company of the Consumers Light and Heat Company, and it has \$20,000 of bonds outstanding, but we have nothing to do with it at all, one way or the other.

Q.—Then so far as the company's property is concerned, your charge of \$180,000 is subject to the charge of \$20,000? A.—Yes. On the combined two properties there is \$200,000 of a charge, 180 and 20 and we have nothing at all to do with that 20. Never had.

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Q.—That is the old original incumbrance? A.—Mr. McNutt reminds me that that \$20,000 has since been wiped out by the issue of bonds of the Bloomington and Normal Company and has been replaced by an additional charge on the other.

Q.—Is that included in your \$424,000? A.—Yes, he says that is the \$24,000.

Q.—The next company is the Central Railway Company of Peoria. Where does that operate? A.—That is a street railway company. Peoria is at the end of the northwest line. Peoria is the second city in the State. It is the whiskey centre, the headquarters of the whiskey trust. This Central Railway is the street railway of that city.

Q.—Then similarly the Illinois Traction Company has acquired the stock of that company? A.—Yes.

Q.—What bonds are there? A.—The Peoria Railway Company has taken over the Central and will have \$2,750,000 of bonds outstanding. The Central has gone out of existence.

Q.—What company represents that now? A.—The Peoria Railway Company represent that.

Q.—I see there is a Peoria Traction and Union Traction. What are those? A.—The Union Traction was the first name of it. It was afterwards changed to the Peoria Traction Company.

Q.—That is different from the Peoria Railway. A.—I don't think there is a Peoria Railway. I have forgotten a little just how that stands.

Q.—Then I won't delay, but you will have the information for us so that we can put it in. Perhaps I may shorten this by asking you to take a statement in the Annual Report of 1905 which you have before you and corrected down to date. Can that be done? A.—Yes, Mr. McNutt says he will do that.

Q.—And give me a column showing, in addition to what is shown in this column, as to bonds outstanding, what the Sun Life holds in respect of all these enterprises. A.—We will have that done.

Q.—Then I will not take up more time with that.

MR. LANGMUIR: The holdings of bonds and stock, I suppose. A.—The stock in every case is owned altogether by the Illinois Traction Company and we didn't own any of it.

MR. SHEPLEY: That is found on page 15 of this Report and Mr. Macaulay has already corrected the figures; that is the preferred and common

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stock of the Traction Company. A.—The amount of the stocks of the subordinate companies are not of very great importance, seeing that in every case they are all owned by the parent company and we don't own any of the subordinate companies' stock.

Q.—You are half owner of the stock of the parent company, and, therefore half owner of all the stock of all the subordinate companies? A.—Precisely.

Q.—Then there are some of these subordinate companies as to which, apparently there were bonds issued that you have not taken part in at all. How did you come to miss those opportunities? A.—I think those were on there before we had anything to do with the properties.

Q.—That would seem to be a good explanation. However, you are going to get me a corrected list, and with that corrected list in, I think I shall put in your Annual Report for 1905. A.—That is the Annual Report of the Illinois Traction Company?

Q.—Yes. Now, I think you have explained to me some matters that bothered us a little as to some odd amounts. Will the explanation you have made as to the particular security I have asked you about apply to other cases where there are odds and ends of bonds? A.—Yes, wherever there was work in the course of construction.

Q.—Supposing it should be thought desirable by competent authority that investments of this sort should be discontinued, how long would you think it reasonable to give your company to get rid of these investments? I ask you as a practical man, with your knowledge of the subject. A.—I would hardly care to discuss even the possibility of such an utterly foolish law being considered. I would consider it one of the most unwise laws that could possibly be a blot upon the statute books of the Dominion.

Q.—I am not expressing the slightest opinion one way or the other about that, but I am asking you whether, supposing people in control should be so foolish as to pass such a law, how long would it be reasonable to give your company to make good? A.—Ten years.

Q.—I do not want you to be held to that answer; if it is an extravagant answer. You did not perhaps mean ten years, you meant a long

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time? A.—I will explain why I said ten years or any such time.

Q.—Is this the explanation in brief; if it is can you make it in extense, if you like. Your company is so committed to these projects—I do not condemn the projects at all—that you could not, from the very nature of the projects themselves and the nature of your interests in them, that you could not wind up your interests in less than the time you say? A.—That is not my meaning. What I mean is this, if you take such a stock as the Illinois Traction Company, speaking of its common stock now, that company to-day will earn a revenue of \$3,000,000 gross. That revenue is increasing by leaps and bounds. The old parts are growing, not as fast as the new parts, but all parts are growing tremendously. Those cities are growing tremendously. Suppose we never put another dollar in, but leave things where they are to-day, just finishing up the properties that are in course of construction and never added another extension, it is almost a certainty that in ten years time the revenue of those properties will be almost double what it is to-day without any addition from outside extensions at all. Now, here we have this common stock. That is earning to-day about 9 per cent. upon its par value. Next year I imagine it will earn somewhere around 12 per cent., and if I were to tell you how fast I think it is likely to grow in the future—it would be just guess work on my own part, but we know enough to know that while we cannot say how fast it will grow, that it is one of the surest things in human knowledge, one of the most certain things that it is possible for a man to foresee in the financial world, that that company's earnings are going to grow tremendously. Now, I say that any law that would compel a company like ours, which has made so much money for its policyholders by this wise and conservative, and yet, at the same time, progressive, way in which we have invested our money, and compel us to sell such a stock as that, would compel us to sacrifice it and to cut millions upon millions of dollars out of the profits of our policyholders. I think that while I would look upon even the Armstrong Commission down in New York, which every person knows has been one of the most conservative—it brought in

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a recommendation in which it said that, after careful consideration, they were convinced that any law which would restrict investments of a company in regard to bonds, would be unwise and injurious.

Q.—Don't you observe, Mr. Macaulay that you are getting away from what we are discussing? I am assuming that it would be foolish because you say it would be, and I want to meet your mind in the question I am putting to you. Let us assume that it would be a foolish law, but let us assume that such a law were to come into being and let us assume that you were bound to commit the suicidal thing you speak of as a sacrifice, what I am asking you is how long ought you reasonably to be allowed to get out with the minimum of loss? A.—My answer is that if you ask a man how long, it is like asking a man when do you want to commit suicide, and he says, I want to put it off as long as I possibly can. Ten years at the least.

Q.—That is very well put, but does not answer my question. A.—Anything that would compel us to sell our stocks, such as those of the Illinois Traction Company, before they have attained their ripeness, before they have developed as they certainly will, even while we are sleeping, would be something that would be so injurious to the policyholders and would mean such a loss to them, that I could not consent that any limit of time would be wise.

Q.—I am not asking you about the wisdom of it. Could you sell? A.—Sell it to-morrow. At a sacrifice.

Q.—So as to make a profit upon what you have put in? A.—Yes, but it is a question of how much profit. We could do it to-morrow, but at a tremendous sacrifice to our policyholders.

Q.—You would not make as much profit as you anticipate, but you would make some profit? A.—Some profit certainly, but at an awful sacrifice to the policyholders.

Q.—If your sanguine views are correct, and I am not saying they are not, the propositions themselves are so admirable from a financial standpoint, that no man interested in finance and with money at his command would hesitate to take your position. A.—He would want to make as good a bargain as he could, and it

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would mean that the profits our policyholders are entitled to make would go into the hands of brokers and financiers.

Q.—Do not assume that I am advocating anything of the sort. I am asking you what would be your position if you had suddenly to realize. You say you could realize at a profit. A.—We certainly could.

Q.—But you would be abandoning all idea of these grand prospective profits which you see in the future? A.—Precisely. We would be giving that over to the brokers and speculators.

Q.—Whoever bought from you would get it instead of you? With these large views of yours for the future of this traction scheme, you no doubt expect and intend to put large sums of money in it in addition to what you have put in? A.—My idea is that the Illinois Traction Company as a field for investment will be one into which money can be put with profit for about another couple of years. After that the field will be pretty well occupied and we will have to look elsewhere.

Q.—Do you expect and intend to take part in the putting in of further money during those couple of years? A.—Unquestionably.

Q.—And you expect and intend to take a large part? A.—Unquestionably.

Q.—And bear a large additional expenditure? A.—Unquestionably, because we consider that even if we were prohibited from getting a single dollar of bonus stock, we cannot get 5 per cent. bonds secured upon extensions that are going to pay in themselves and made absolutely gilt edged by a company which has already a surplus revenue of \$700,000 a year to guarantee their bonds. To get 5 per cent. on bonds like that at 85— I don't know where on earth we can get them except here. We want those bonds whether we can get the profit or not in the way of stock.

Q.—You seem to think I am arguing with you about it. I am not. I am just asking you a question? A.—No, you are putting a suppositious case. I am not fighting Mr. Shepley, but the suppositious case he has raised. This whole question, your Honors, I think is so important that we ought to go into it pretty thoroughly. It is so very important that we ought to thresh it out very thoroughly.

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MR. KENT: Do you want to take the afternoon for it, Mr. Macaulay? A.—If there is any probability of such a foolish, such an awful law being proposed, an afternoon is the least you can take to it.

MR. LANGMUIR: Mr. Macaulay, I think I have heard it said that the bond issue generally represents the cost of the railways? A.—Yes.

Q.—And that the stock is almost entirely bonus or water? A.—Yes.

Q.—Now, as a far seeing man—as you undoubtedly are—have you ever harbored a fear in these times when municipal ownership is so much on foot, that the State may take over these traction schemes on the basis of cost and squeeze out the water? A.—In the first place these inter-urban railways are as a rule incorporated under the general railway laws and are on exactly the same footing as the general railways, and it is impossible that the inter-urban railways could be dealt with separately from the steam railways incorporated under the same laws.

Q.—You have heard that there is a candidate for the presidency now, speaking of governmental railways, have you not? A.—I don't know what is possible in the direction of municipal ownership.

Q.—I am asking you whether you have considered it? A.—I know that the question of municipal ownership has never come up except in cases where the franchises are expiring. Now, if you get good franchises—they are essential I grant that—one of the things that we have learnt from our experience is the absolute necessity of having long first-class franchises—that is essential but if you have that you are protected against 19-20ths of the danger from municipal ownership. If you have not got that then you are open to it like they are in Chicago and possibly in Detroit, but if you have these long franchises you are protected.

MR. SHEPLEY: You are, if there is no legislation to oust that protection? A.—That legislation would, I think, in the United States be unconstitutional. There might be possibly in Canada.

Q.—You mean to do away with that protection would be unconstitutional? A.—The legislation that would do away with that protection. In Canada such a thing is a possibility because our Parliament, as I understand,

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is supreme, but in the United States even Congress is not supreme in a thing like that; even Congress is bound to recognize existing rights.

Q.—And compensate for them? A.—No, it cannot, as I understand it—excuse me for arguing with such a lawyer as Mr. Shepley—but I understand that the law as it is, that any law that would do away with an existing right or break down an existing contract except with the entire concurrence of those people would be unconstitutional and could not be enforced.

Q.—You know that in the United States there is the right of what is called Eminent Domain? A.—That is a right inherent in the State I understand, but this other right is limited by the constitution of the United States. I may say that I speak positively on this point because it is one we have discussed frequently with lawyers and that is why I happen to have views on the question.

Q.—I am not expressing an opinion; I want to get your views, the views of what a practical man like yourself may be on questions of that sort; to what extent do you think that the taking away of a man's land to put a railway on it is not an invasion of vested rights? A.—I understand that that is a right which the State has reserved for itself, for its own purposes, but that is all.

Q.—Then supposing the State for its own purposes wants to run railways, and wants in the course of that to take all railways under its control, to nationalize railways? A.—Granting that it is possible, then we are going to be in the same box with all the shareholders of steam and street and interurban railway companies in the United States and Canada, and I am not afraid of much injustice being done to the shareholders. We will take our risk of that.

Q.—You mean that you can control the legislation? A.—No, I mean that there is not much danger. When I say we I mean that the steam railways would see that their interests are looked after sufficiently.

Q.—That is they will control the legislation. A.—Let them control it if they like, but we are in mighty good company.

MR. KENT: You may be in distinguished company, but do you say "mighty good company?" A.—Your Honor, just in closing I would like to say that this whole question comes

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back to the question of safety. That is a very big question and I think that ought to be gone into pretty thoroughly.

MR. SHEPLEY: You have informed us with regard to that, I think. A.—I have not begun upon it yet at all.

Q.—Would it be convenient for you to give us your views on some other occasion? A.—This afternoon. I want to get them before the Commission.

Q.—Supposing you go on now. Perhaps you can tell us a good deal between now and one o'clock. I was thinking it was at half past twelve we stopped.

Q.—I will tell you in advance that I want to devote the afternoon, or most of it, to the discussion of some quite different subjects, so, if you can, make it as brief as possible, consistently with saying all you think ought to be said. A.—The question of how a life insurance company should invest its funds is a very important one. I have said already what we think about mortgages, and that we don't look upon them with favour. We came back to the fact that the great openings for life insurance funds are the bonds and preferred stock of public utility corporations, such as street railways, electric light companies, and so on. Steam railways have not figured largely in Canada for two reasons; first of all because we have only two or three steam railways in Canada that have been very prosperous and their securities have been largely floated abroad, and at any rate they only bring them out at odd times. The second point is that our Act precludes us from purchasing even the bonds of a steam railway unless it has earned and paid dividends for two years. That shuts us down to all except those that yield low rates of interest. Then it comes back to the street railways, traction companies and electric light companies that we must look for our investments. Take, for example, this one, the bonds of which were the beginning of the Illinois Traction Company's system; the Danville, Urbana and Champagne. There was \$750,000 of bonds put on that property. We had the certified earnings of that property showing that in 1901 they earned \$314,000 odd gross, and in 1902 they earned \$432,000. That the net earnings for those two years had been

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\$154,000 odd and \$216,00 odd respectively. Now the whole of the interest charges upon all the bonds of every kind that the company had outstanding at that time, absorbed \$79,000, including some of the bonds that would be replaced out of this new issue. That left a surplus actually established by the auditors of \$136,700 for the previous year. Now, all that was required to provide the interest upon the next \$750,000 of new bonds that Mr. McKinley and we took jointly was \$37,500. The earnings for the previous year, certified to by the auditors, provided a surplus of nearly \$137,000 and the new interest charge was only \$37,500, so that there was a surplus of say \$100,000 from the earnings already in existence. We claim that this was a case where we said we cannot lose, the earnings are established, certified, they are existing. Even supposing the earnings should stand absolutely still and not grow at all, we are safe; these roads are already earning \$3 for every one of interest upon the new issue of bonds. Now, for the extra money that was being put in for construction there was only the extra interest charged. Part of it would be used to discharge some of the underlying bonds, but it would only be about \$16,000 more of interest, so that even deducting the interest upon the money required for the new road there would be a surplus from the old earnings of \$82,000, so that even if the new road did not earn a cent our bonds were safe. Therefore we said that our bonds were absolutely safe, no matter what happened, because the earnings are there and established and certain. That was on the supposition that they would never increase, but as a matter of fact, when we looked around those places we saw that those cities that increased 60 per cent. by the census in the previous ten years and we saw new houses continuing to go up in every direction, and when we saw the coal district and the mines around and the big factories springing up, we said it is impossible for these cities to stand still, if they do stand still we are safe, but we think it is a dead certainty that they will continue to grow, they have been growing rapidly in the past and we think they will grow rapidly still. Then Mr. Hodges gave an estimate in his report that instead of the actual net earnings of \$216,000 for 1902 there

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would be \$236,000. There was actually \$259,000, so that it surpassed his earnings. That was for 1903. By the year 1905 that actual same property, just that piece alone that is subject to the original bonds, had increased the earnings from the \$216,000 at 1902, to \$362,000 in 1905, and for 1906 that same piece of property will probably have net earnings of about \$450,000. So that here was a thing where already there was \$3 of net earnings surplus over all interest charges for every dollar we would be putting in, and we saw we had an estimate from a competent engineer that it would increase largely and by 1906 the earnings would be about double the estimate given by that engineer. Now, I say that is as safe a thing as you can get. People may think there is speculation. There is no speculation. I have no use for speculation, but I do say it is possible in connection with investments to mistake sleepiness for conservatism, and because we go out and hunt up good investments that are also safer than those we can get, we are not to be blamed, but we have done the best we can for our policyholders. Then take these new bonds. It is quite true as Mr. Langmuir says, that in most, though not in all, cases, the proceeds of the bonds are what are used to buy the roads. Mr. Shepley has himself mentioned that most companies are financed in that way. That is true, but there is this difference, that by means of this connection we are able to get bonds that are not merely first mortgages upon those properties, but are guaranteed from their inception by the parent company, which makes them simply absolute and as good a bond as you can get. Because we put all the earnings of the parent company behind them, and those bonds, from the standpoint of safety, cannot be surpassed. Now, your Honours, we have had a lot of experience in this investing business. We have been at it for years and years. We have \$21,000,000 of invested funds. By this time it is about \$24,000,000. And I say it most deliberately that in all our experience we have never had bonds or investments of any kind that appealed to us as being anything approaching in safety those that we are getting through such a corporation as the Illinois Traction. If you cut out such

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a thing as that you will be cutting out not merely the source of profit—profit is a secondary thing, safety is first—you will be cutting out the safest thing we possibly can get, and have been getting in the history of our company.

MR. SHEPLEY:—I wish to put in as I had promised you I would the subsequent report of Engineer Hodges, Exhibit 625. A.—I thank your Honors for giving me this opportunity of expressing my views on a subject upon which I feel strongly.

JUDGE MAC TAVISH:—You do not require to thank us. We are very glad to hear you.

(adjourned to two p.m.)

AFTERNOON SITTING.

T. B. Macaulay (Examination resumed by Mr. Shepley:)

Q.—Then Mr Macaulay there is a group of securities which for the sake of convenience we will speak of as the Appleyard securities. Will you give us the origin of your transactions in those securities? A.—What is known or used to be known as the Appleyard System of Traction Companies was a system—do you want to know where it was?

Q.—Yes. A.—It was a system of interurban railways that began on the west at the city of Dayton, Ohio, ran eastward to Springfield, Ohio, with a spur up northward to Urbana and Bellefontaine, and another line from Springfield eastward to Columbus, and included a street railway in the city of Columbus also.

Q.—The Urbana is not the same Urbana as you have in the other? A.—No, nor the Springfield the same Springfield.

Q.—This is all in the State of Ohio? A.—Exclusively in the State of Ohio.

Q.—And you would probably tell me that the conditions with respect to the Appleyard system do not differ substantially from the conditions with regard to the other systems which you have found so successful? A.—No, it was a system that was admirably located, served a large and growing population. The road was well built, and it had every essential of success except one, and that was proper management.

Q.—Now then, tell us how you first became interested in that, and trace your transaction in the outline—I do not want to go into it in very much

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detail as in the case of the other. I am using the other as an illustration. Give us in outline the history of these investments and their results, and take it your own way, so long as you arrange it chronologically, otherwise you will never make me understand it. A.—Perhaps I might explain at the start, that I am not as well posted in regard to this matter as I was with regard to the Illinois, as I had given up some time for several days past to reading up all the old correspondence, and so on in connection with the Illinois matter, and I have not had time to refresh my memory in regard to the Appleyard matter—but I will do the best I can. I have just had time to look into it a little at noon hour. In the year 1902, we made two purchases of the preferred stock of the Central Market Street Railway of Columbus Ohio, the purchases being in each case for \$100,000. The first purchase which we bought from E. H. Rollins and Sons being at 95, with 50 per cent. bonus common stock, and the second purchase at 90 direct from Appleyard, with an equal amount of common stock.

Q.—So that you would hold, on that first transaction, or on those two transactions, two hundred thousand dollars of preferred, half of it bought through Rollins and half through Appleyard. Did what came through Rollins come from Appleyard also? A.—Yes.

Q.—And you would hold \$100,000 common by way of bonus? A.—Yes.

Q.—Who was Appleyard? Did he occupy the same position with regard to this system as McKinley did with regard to the other? A.—Yes, except that there was all the difference of a mile between the two men.

Q.—But his attitude towards the proposition was the same as the attitude of the other man? A.—Yes, with this difference that he controlled these other things.

Q.—Who? A.—Appleyard controlled the Ohio property, while under the way we fixed things with McKinley, McKinley did not control them, but we controlled them.

Q.—He controlled the stocks? A.—Yes.

Q.—You give us a date for that I see? A.—There were two dates—about the middle of 1903, each of them.

Q.—1902? A.—Yes, 1902. This Central Market Street Railway was a railroad in the State of Columbus. It acted

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as a terminal for all the interurban railways that came into the city. The reason why they needed a separate railway for a terminal for all the interurban railways was that the city road was broad guaged, and the interurban roads were all standard guage, and they could not come over the tracks of the city road, and therefore there was this terminal formed for the whole of it, and also to do a certain amount of city business.

Q.—Was it a distributing railway? Did it distribute the passengers that came over the Interurban road, or just simply take them to the heart of the city. A.—It was like a square, like a cross rather, and a big loop in the centre, and all the interurbans would come in around that loop, and besides that it charged city fares to any person going up and down its own line.

Q.—Then that was the first of your dealings with the Appleyard securities? A.—Yes.

Q.—Now then, go on with the history of those. That seems to have been an isolated transaction? A.—Yes.

Q.—That is just a transaction standing on its own bottom? A.—Yes.

Q.—And that was the acquisition of these blocks of stock? A.—Yes.

Q.—Are you able to give me the capitalization and the bond debt of this Central Market street railway at the time you invested in the preferred stock \$200,000? A.—My recollection is that there was a bonded stock of \$500,000, and that there was a preferred stock of \$400,000, I think.

Q.—And common? A.—A common of — I do not know how much. The preferred stock was listed upon the Cincinnati Stock Exchange and was selling there among brokers and had been largely bought by then investing public in Cincinnati.

Q.—What dividend was it drawing? A.—Six per cent.

Q.—And it was six per cent. preference stock, subject to a bonded debt you say of \$500,000? A.—Yes.

Q.—Then you would have the whole issue for stock, \$200,000, out of \$400,000? A.—Well, it may have been \$500,000 preferred stock, I would not be positive.

Q.—Then go on with the historical account of these dealings. That transaction was never brought into the general account at all, was it? A.—Oh yes, that formed part of it.

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Q.—Then we will get the Minute book and deal with that? A.—During the year 1903 we sold back to Appleyard in various sums \$125,500 of that stock, reducing the amount of the stock to \$74,500 par value, which stood us at cost price \$67,425.17; so that this original holding was reduced in that way to these figures.

Q.—You had \$74,500 left, standing you \$67,000 odd? A.—Yes, we sold these mostly at profit and kept the common stock.

Q.—You seem to have sold at 90? A.—95 to 100 I think.

Q.—We will get the figures when we get the items? A.—Yes, I have here the prices at which we sold the different entries.

Q.—We will have that taken down? A.—On March 19th, \$33,000 at par; June 4th, 1903, \$73,000 at par; June 4th, \$25,000 at 97 7-8. That was sold, if I remember right, on the Cincinnati stock exchange. October 16th, \$4,000 at 95; October 22nd, \$13,000 at 95.

Q.—That makes the whole \$125,000? A.—Yes.

Q.—What did you get? Cash? A.—Cash in some instances. In some cases they were in connection with exchanges.

Q.—Can you let me know how much cash you did get and in which transaction? A.—We can follow that along by the minute book. That is the only way I can do. I would like to emphasize again my regret at not having these things at my fingers end, but I could not do it in the time.

Q.—We are sorry to hurry you and we want to get things just as they are? A.—Yes, in the little minute book.

Q.—Page 274 of this book, the date date of it being what? A.—June 30th, 1902.

Q.—Central Market street railway of Columbus 6 per cent.— A.—Non-cumulative stock.

Q.—The disposition of that is "Take \$200,000 if everything is found satisfactory." On the 8th July Central Market Street Railway of Columbus, \$200,000 preferred stock has been purchased, \$100,000 at 95 and 50 per cent. stock in connection with exchange, etc. That is marked approved? A.—That was the beginning.

Q.—Then \$100,000 at 95 in connection with an exchange, what does that mean? A.—That means that instead of giving cash we were able to turn over some inactive securities, which

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he would undertake then to sell. In other words, it was the means by which we could get a broker to sell inactive stocks which we could not sell.

Q.—You replacing them with this issue no doubt conceived to be an active security? A.—Yes, we thought this was the best.

Q.—Then the \$100,000 at 90 with 50 per cent. stock—balance in exchange. I suppose that was the same way? A.—The same way.

Q.—That is the first, what was the next? A.—There is a purchase here of bonds of part of the system but they were not bought from Appleyard. Will I refer to that?

Q.—Yes. A.—October 14th, 1902, we purchased \$75,000 of the five per cent. bonds of the Urbana Bellefontaine and Northern Railway at 97½, and interest from Mr. B. Fisher of Boston, he taking in part payment \$60,000 of the Norfolk Railway and Light Company, Boston, as 97½ per cent. They had rather deteriorated in value on account of competition coming up, and we were very glad to work them off, and considered we had made a good deal by it. We have not been in the habit of considering that as part of the Appleyard securities.

Q.—Then if you have not been in the habit of considering it so, we will not consider it so on this occasion, and we will pass on. They have not entered into that account? A.—No. There is no further transaction for some time. Here is one March 17th, 1903, preferred stock Dayton, Springfield and Urbana Railway; transaction has been completed for \$250,000 at 80—oh, I beg pardon, I have skipped one of the week before. In my hurry through I did not notice this. March 10th, 1903, preferred stock Dayton, Springfield and Urbana, \$30,000 at 80 per cent., Mr. Appleyard taking in part payment \$80,000 Bellefontaine, Urbana and Northern bonds at par, and \$50,000 Central Market preferred stock at par; how disposed of, approved to the extent of \$250,000.

Q.—Does that mean \$250,000 instead of \$300,000? A.—Yes. Then on March 17th, one week later, there is this entry preferred stock Dayton, Springfield and Urbana Railway; transaction has been completed for \$250,000 at 80 per cent.—that is the same rate—Mr. Appleyard taking \$53,000 of Bellefontaine and Northern bonds at par, and interest, and \$33,000 of Central Market preferred stock at par and interest. That was cutting them both down, because we had cut the amount down. Approved.

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Q.—How much of the Central Market went there? A.—\$33,000. This is the first entry here.

Q.—Then the next? A.—On July 2nd, there is this entry, "Preferred stock Columbus, London and Springfield, 5-6 per cent., meaning that it was five per cent. for a certain number of years, and six per cent. thereafter, I think five per cent. for three or four years, and six per cent. thereafter; non cumulative, proposition accompanied by \$375,000 at 80 per cent., 50 per cent. common stock bonus, Mr. A. E. Appleyard and Company purchasing in part payment \$27,000 Bellefontaine and Northern bonds at par and interest, \$73,000 Market Street preferred at par and interest, \$40,000 Dayton, Covington and Piqua bonds at par and interest, approved."

Q.—Then you are acquiring now the Columbus, London and Springfield bonds to the extent of how much? A.—\$375,000.

Q.—Then the next? A.—July 28th, 1903, there is this entry, "Bonds, Central Market Street Railway of Columbus, 5 per cent. 19 years, \$200,000 at 95 and interest. This never went through.

Q.—If it did not go through let us not waste time over it? A.—That was never completed although it was approved.

Q.—Then the next? A.—On August 17th, 1903, there is this entry, "Suggested arrangement for the purchase of securities from Mr. Appleyard as follows, \$53,000 short 6 per cent. bonds Chippawa Valley Electric Railway, at 80; \$170,000 short 6 per cent. bonds Dayton, Springfield and Urbana Railway at 80, \$285,000 preferred stock Dayton, Springfield and Urbana at 50, \$276,000 short 6 per cent. bonds Columbus, London and Springfield Railway at 80, \$220,000 preferred stock, Columbus, London and Springfield at 40, \$10,504 bonds of the Columbus Grove City and South Western.

Q.—10,000 bonds? A.—No, that is the total amount.

Q.—That is the number of dollars? A.—Yes, at 80; \$10,000 Dayton, Lebanon and Cincinnati at 50, \$50,000 of the stock of the Urbana Electric Light and Power Company at 40, and \$93,100 stock of the Eaculaire Light and Power Company at 40, out of the proceeds paying ourselves \$539,000 due or becoming due by Mr. Appleyard and balance in cash, and \$50,000 Central Union Telephone bonds, Mr. Appleyard to have right to repurchase at

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ten points advance and giving further security that he will do so, approved."

Q.—Now that brings us to the transaction that I want to enquire about. How did Mr. Appleyard happen to owe you \$539,000? A.—From the transactions that we have recited before.

Q.—What is that? A.—From the transactions we have recited before.

Q.—No, the transactions you have recited before were purchases? A.—They were purchases, but we have got from him an obligation to repurchase.

Q.—Just put it together for me then. You had been making advances you know? A.—I wish I had had time to look it all up.

Q.—Apparently according to the account that is before me, there was \$305,629; then a sum which we will have to deal with a little more specifically a little later on \$13,121 and \$225,000 and \$50,000 advanced to him at that date (making about \$539,000.

A.—These purchases by us—Mr. Appleyard had retained the right to repurchase at an advance and he had repurchased them, and had got from us loans.

Q.—He had borrowed from you to buy back from you with? A.—Yes. My recollection is a little bit hazy, but he was under an obligation to repurchase these securities at an advance, and when the time came he was not able to do so, and in order to make our legal position perfectly right we got him to execute agreements by which he legally bound himself to the company, and I have no doubt that this is the amount that is referred to.

Q.—What advances were you making to him? A.—We made him, as far as I remember, no advances excepting just to replace—

Q.—Will you turn to the cash journals, and I will give you the pages and we will have those items explained? A.—I think the books are being brought in. I think that is the position of the matter to the best of my recollection. He had bound himself; while these are entered here as purchases, we had also got an obligation from Appleyard to repurchase them a little later at an advance, then we called upon him to carry out his agreement and he was not able to do so, so that in order to put it in legal shape, we made him execute loans from us.

Q.—I suppose there is a docket—we have not seen it yet—a docket containing all these papers? What books

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are these that have been just brought in? What is the date of that book?

A.—On that date, July 31st, 1903, there is an entry showing that Mr. Appleyard repurchased from us \$250,000 of preferred stock, of the Dayton, Springfield and Urbana Railway, which we ourselves had bought from him before at 80. He repurchased it at 90, but as I have mentioned, from memory, that was in accordance with an agreement that we had got from him to give us at the time we bought it, because we looked upon this not as a permanent investment, but as loans with a right of redemption.

Q.—Do not get to that yet. What was the transaction on the 31st July?

A.—That he purchased from us \$250,000 of those bonds at 90, but did not pay for it in cash, but gave us his obligation for the amount I think—yes, that is the entry.

Q.—Is the entry not this: that you advanced \$225,000, with which he bought back this stock? A.—Yes.

Q.—I want to put it the way it was? A.—The way I have put it comes to the same thing exactly I think.

Q.—Perhaps it does, but I would rather have it the way the books disclose. The books show you advanced him \$225,000, with which he purchased the stock from you? A.—Yes, the actual fact being that he was not able to carry out his agreement to purchase, and in order to give a legal hold on him, and to put the legal position in clear shape, we got him to execute this legal obligation, holding exactly the same security as before.

Q.—You held the same stock, but he was your debtor to the tune of \$225,000, which represented a profit to you of something like \$24,000 or \$25,000? A.—Something like that. We wished to get a legal hold on that profit.

Q.—No cash passed of course? A.—No.

Q.—Then what happened with respect to that profit? What did you do with that? Where did you put that? You treated that as a profit made, did you not? A.—I think so.

Q.—In other words, you treated it as though he had come and paid you the money? A.—Yes.

Q.—As though it had been his own money, as though it were final with you, and as though \$25,000 of it represented the profit? A.—Yes.

Q.—And you carried that profit to what account? I think you carried

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\$24,155.92 to profit and loss, and \$812.86 of it to interest; is that right? A.—That is right.

Q.—What interest was that? A.—That would be I imagine a portion of the amount that was really interest.

Q.—That is, that was earned interest upon those bonds? A.—Yes.

Q.—That was on the 31st July, a month before the transaction you were showing me a few minutes ago. Then what is the next deal? A.—Have you the memo. of it?

Q.—August 14th, \$50,000. What do you find there at page 828? A.—That is the first payment on account of this minute here.

Q.—What do you mean by the first payment? A.—The amount that was referred to in the Minutes there was paid in instalments, and that is the first instalment.

Q.—You gave him \$50,000 in cash? A.—Yes.

Q.—On the 14th August? A.—On the 14th I suppose.

Q.—The date of the Minute is the 17th August, three days later? A.—Yes.

Q.—Then you had given him \$50,000 on the 14th August? A.—I am not positive—well yes, and it was transferred to expense account in the meantime.

Q.—That would indicate that the negotiations were proceeding, at that time? A.—Yes.

Q.—And that you knew pretty well what your Board were going to do? A.—Yes.

Q.—And that you were acting in advance of the action of the Board? A.—That is it exactly.

Q.—Now let us come back to the transaction, as you have it in the Minute. He was to give you what? A.—He was to give us a large amount of these things out of which we were to pay ourselves, everything that was coming to us.

Q.—Will you tell me how the \$539,000 was arrived at? It is the stocks and bonds mentioned in the minute? A.—There is a regular agreement.

Q.—Is that here? A.—I think so.

Q.—Let us have it? A.—It sets forth the whole thing in detail. There is the full agreement.

Q.—I have not seen this before. This is dated 17th August, between Arthur E. Appleyard and the Sun Life. Mr. Appleyard hereby sells and transfers absolutely to the Sun Life Assurance Company of Canada, and the latter hereby purchases the follow-

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ing securities. Now follow me with the minutes. First, \$53,000 short term bond or note of the Chippawa Company,—(reads memo.)? A.—At 80 per cent., it is not extended here.

Q.—\$170,000 short term 6 per cent. notes Dayton, Springfield, Urbana electric company at 80 per cent.,” (reads items.) You did not want these securities. You were taking them because you wanted to get closed up with Mr. Appleyard? A.—We wanted to improve our position.

Q. You were not seeking investment in these particular securities? A.—No.

Q.—Mr. Appleyard had got in your debt to the extent of \$539,000, and you wanted to get the best you could. Was that not it? A.—Pretty much it.

Q.—You have shown us about the \$225,000. How else? By what other transactions had he got to the extent of \$539,000? A.—It is all set forth in detail.

Q.—Then we will follow this out, and see how it is. The second paragraph is as follows (Reads paragraph). What is that? Was that one of the transactions you told me about? A.—I think so.

Q.—That was the transaction of the \$375,000. Columbus London and Springfield, that although a purchase at the time that transaction was made, it was really a loan, was it not? A.—It was a purchase, but with the obligation on our part to resell, and the obligation on his part to repurchase at an advance at a certain date.

Q.—Then it is rather splitting hairs to call that anything more than a loan, is it not? A.—It is a matter, I do not care particularly.

Q.—The essence of the transaction was that he was in your debt that much money, and had to pay it back? A.—Yes.

Q.—He was under an obligation to pay it back? A.—Yes.

Q.—Then paragraph No. 3 reads as follows, (Reads). That is the transaction that we have just taken from the cash journal? A.—Precisely.

Q.—Then those two items added together make up the \$539,000 odd, August 13th, \$50,000. You had paid that by way of anticipation? A.—Yes.

Q.—Will you just confirm these figures, Mr. MacNutt, and let us see if this is the way it was paid. Just look at the pages in the cash journal. On the 29th August, at page 829, \$25,000?

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MR. MACNUTT:—Yes.

Q.—21st August, same page \$25,000,

MR. MACNUTT:—Yes.

Q.—On the 3rd September page 846, \$25,000?

MR. MACNUTT:—Yes.

Q.—On the 10th September page 848, \$25,000?

MR. MACNUTT:—Yes.

Q.—23rd September, at page 867, \$20,000?

MR. MACNUTT:—\$20,000.

Q.—On the 2nd October, page 882, \$20,000?

MR. MACNUTT:—Yes.

Q.—On the 7th October, page 883, \$5,000?

MR. MACNUTT:—Yes.

Q.—And on the 13th October, page 890, another \$5,000?

MR. MACNUTT:—Yes.

Q.—That was apparently all the cash that was paid. Do you find anything else?

MR. MACNUTT:—I do not find anything else.

Q.—Then there is an item interest and exchange and sundry \$1,170.

MR. MACNUTT:—What date is that?

MR. SHEPLEY:—I do not think we will trouble about that. That is too small a total for us to waste time over.

Q.—At all events, that is substantially the way that cash element in the transaction was discharged? A.—I think so.

Q.—The account is balanced here by \$1,170. Now that closing represented a profit to you upon the original transaction? A.—Yes.

Q.—Represented a profit that is disclosed between the price at which you purchased, and the price at which he repurchased? A.—Yes.

Q.—How did you go about closing the account with Appleyard? A.—In what way?

Q.—How did you take these stocks and distribute them—these securities that you got from him in the closing—and how did you distribute them so as to show that Appleyard was no longer your debtor, and to show you had made in the transaction with him the profits you did make? A.—We put the entries through exactly corresponding with this agreement. We put that agreement which you have there into our books.

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Q.—Now you have put it exactly the way it is. You put that agreement into your books, so that you appeared then to have on hand these various securities which you received from him upon the clean up at the figures at which they were put in the agreement? A.—Exactly.

Q. And those included if the securities were valid for the amounts they represented, those included the profit you had made upon the turn over of the other securities? A.—Yes.

Q.—You will just check that if you don't mind, so that we will see how accurately you have followed that. For instance if you will just read them I will call them out as they appear in your book? A.—I remember now there was a slight variation from this, but the substance was there. It runs in my mind he purchased different stocks from those he was bound to purchase.

Q.—Give me the name of the security? A.—\$53,000 Chippawa Valley; \$42,400.

Q.—That is Chippawa Valley \$49,000, \$39,200? A.—In the final wind-up he had promised to give us \$53,000. but he was unable to do so, and only gave us \$49,000 in place of \$53,000 so that he gave us a little less than that particular one than he promised.

Q.—You are \$3,200 short on that? A.—There is a letter on that.

Q.—What is the next one? A.—\$170,000 of the six per cent. bonds or notes of the Dayton, Springfield and Urbana, \$136,000.

Q.—That is \$128,120; you have \$160,150 only? A.—Here is a copy of a letter to Mr. Appleyard dated October 16th, 1903, drawing attention to these very points you are speaking about.

Q.—Let us get the figures first. I won't keep that out at all. A.—Well, there is \$170,000 and the amount he really gave was \$160,150.75, according to this letter, instead of giving \$170,000.

Q.—How much? A.—He gave \$160,150.75, which figures \$128,120.60—

Q.—What stock is that? A.—The second item.

Q.—The deficiency then was \$49,179.40? A.—This letter will explain the whole thing. I do not remember, but I think it explains the whole thing.

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Q.—I will put in the letter? A.—If you allow me to read that letter, it will refresh my memory, I think.

Q.—Give me in a word how that deficiency was made good? A.—It draws attention to the fact that on the other hand you have delivered to us a surplus over and above the shares called for— (Reads.)

Q.—What you did was to take those 1,800 shares and credit them in the account at the sum of the deficiency, \$49,179? A.—I think so.

Q.—That seems to have been so? A.—Yes.

Q.—The circumstance I want to call your attention to is this—because, of course, it is indicative of the very condition of thing you are telling me about, the very bonds, the Dayton, Springfield and Urbana bonds, the very bonds which you had bought from him originally at 80, and made him buy back three days before at 90, you took from him at 80 in this? A.—Yes. The position was this, your Honour; Appleyard was not able to pay up, and if he got into trouble we saw there would be a slump in all his securities, and we got all we could from him to protect ourselves.

Q.—On the best terms you could arrange? A.—That is it exactly, and we thought we made pretty good terms.

Q.—And on that turn-over you had dropped the profit you had put down in your books three days before on the manipulation of the \$325,000? A.—How do you mean dropped it?

Q.—You carried it to profit and loss? A.—We made that good. We got enough to make good everything to us, and we thought everything was good, including all our profits. At that time we considered we had made everything good including everything, but our subsequent judgment changed.

Q.—Then that was an end of the matter as far as Appleyard was concerned. You had no further dealings with him? A.—We had further dealings, but no financial dealings.

Q.—How much of these securities do you still hold, and what have you done with them—those you do not hold? A.—We hold most of them still. There is an agreement by which we are to sell nearly all of them over to other parties.

Q.—Which of them have you disposed of? A.—The Chippawa Valley bonds—those were temporary bonds,

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and we got permanent bonds of the company for them.

Q.—You hold the permanent bonds?

A.—I think we sold some of them, and hold some of them still, but at any rate the Chippawa Valley was eliminated in that way. The Chippawa Valley is not in Ohio, it is in Wisconsin, and it is really not part of the Appleyard system.

Q.—But it is part of the stuff you got when Appleyard went to the wall? A.—He never went to the wall. I do not think he ever failed even to this day.

Q.—He was not able to carry out his contract with you? A.—No, but I think he never failed till a long time afterwards.

Q.—If you were realizing those bonds to-morrow, how much would you lose or gain? A.—The securities of the Appleyard system in Ohio, we have a regular agreement to sell the whole of them to Mr. Andrew Morgan, who represents a syndicate in Philadelphia, one of the wealthiest syndicates in the whole of the United States, at \$675,00 of a guaranteed stock and the entire cost value of our central market in cash, plus interest.

Q.—You have an agreement that you will sell for that? A.—Yes.

Q.—Have you an agreement that it will pay that? A.—Yes, got him tied right up.

Q.—So that when the securities are realized, what position are you going to be in? A.—We are going out of them. We will use a little interest on them.

Q.—And you will have another kind of security? A.—But a gilt-edged security.

Q.—But you will have another kind of security? A.—For part, and cash for part. The agreement is that they are to pay us that in cash plus full interest.

Q.—What have you done on your books with the Central Market? A.—We have done nothing. Oh, I beg pardon, I meant to say we have not done anything in the way of selling out or anything of that kind. For a while we thought these securities were poor, but we are coming out of them first class. For a while they dropped in our opinion very materially when Appleyard got into difficulties, and they are among the securities that we wrote down very heavily.

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Q.—You wrote off the whole \$67,425? A.—The Central Market, we wrote the whole of that.

Q.—And what did you do with the \$100,000 bonus stock you had there? A.—We wrote it off, too.

Q.—It was in your books at a dollar and written off at a dollar, and the \$67,000 were written off? A.—Yes.

Q.—And the Columbus, London and Springfield in the same way? You remember what you wrote off that? \$145,881? A.—I remember we wrote down very heavily on those, but I cannot tell exactly without looking into the books. We wrote off the whole Central Market, and we wrote off \$457,000 of the London, Columbus and Springfield preferred stock. That is par value, \$145,881 of the Columbus, London and Springfield; \$125,000 Dayton, Springfield and Urbana; \$80,000 from the Columbus, London and Springfield, and \$5,000 Dayton, Springfield and Urbana Bond, I think was it all.

Q.—Whatever your sanguine anticipations may be at present, there was a time when you faced an actual loss as you then supposed of somewhere in the neighborhood of half a million? A.—I think that is placing it too strongly. We feared we might have a loss, but still we did not go so far as to think we would lose it.

Q.—You went so far as to write it off your books as a bad debt? A.—In this way, we said we were making such large profits on the other things that we could afford to write off anything which had become doubtful and we wrote it off.

Q.—And you took the money with which to replace these last investments out of the Illinois Traction stock which was a bonus to you? A.—Yes.

Q.—Writing that up? A.—Substituting the one for the other, to substitute one exceptional thing for the ones that were doubtful, but while I admit at once that we thought they were doubtful then, and unquestionably they were doubtful then, they are turning out first class.

Q.—It is a fortunate thing if you get a gilt-edge security that turns out first class? A.—Well, that is good.

Q.—You did not invest in these without thinking they were Al stocks? A.—Yes, but our judgment was not as mature then, it was not sound.

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Q.—Is this loss wholly explained by want of experience on the part of the investor? A.—We would have had no loss at all but for the wrongdoing of Mr. Appleyard.

Q.—When you say wrongdoing, you mean incompetence? A.—Incompetence and wrongdoing, mismanagement right through and through.

Q.—Well, do you think that you have any insurance against mismanagement in other quarters? A.—We know that this has taught us one lesson, and that is the importance of control. There was no trouble at all with those properties except Mr. Appleyard. If they had been controlled by Mr. McKinley, or any other first-class man, there would have been no trouble at all. If we had been able to exercise control in the same way as we have the power in the Illinois Traction Company, not only would we have had no trouble, but would have made an immense amount of profit. One lesson we draw from this is the importance of being able to control the policy, and doing the thing we have been doing—

Q.—And underlying all that is the personality of the man in charge? A.—Yes.

Q.—The personailty of the man in control? A.—Yes.

Q.—The right man in control, good results, and the wrong man in control, bad results? A.—Yes, but following that with one other step, we cannot tell whether a man is going to be good or bad until we have had experience with him. Then if you have the control if a man turns out bad, you ship him, and put another man in.

Q.—You lock the door after the horse is stolen? A.—No, they cannot steal many horses when you have the control of things. I was speaking on this very subject of control with a firm of bankers—if you will pardon the digression—one of the most prominent firms in New York; and I suggested that they should go in jointly with some of the things we were going into, and the two partners were there and one of them said, "One of our absolute rules of business is, no matter how good a thing is we will not put one dollar of our money in a matter we do not absolutely control." (Now what is a good thing for them, learned out of banking experience, is

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a good thing for us, and our experience confirms it. We have learned out of this matter to keep a control, or just a little bit of a hand over the actions of a management of a traction company, or all kinds of investments, as one of the matters of vital importance from the standpoint of safety.

MR. LANGMUIR:—You have a big contract there? A.—Yes, but it can be done.

MR. SHEPLEY:—Q.—Let me ask you about two or three other matters, just in a general way; because I am bound to say you have given me a great deal of assistance in giving these illustrations. I am not going into detail in any of the other matters. Take for instance the Cornwall Street Railway; that did not turn out in its early maturity to be a good investment? A.—No.

Q.—And I think practically that has involved a life insurance company running it? A.—Yes.

Q.—Do you consider that desirable? A.—I do not. Your Honors we have learned certain things from our experience with investments.

Q.—But you do not mean to say you have learned all there is to be learned.

A.—No, but when we have learned a lesson—

Q.—If you are an apt pupil you would be learning year after year? A.—Yes.

Q.—And the thing that seems rosy this year may not be rosy five years later in your experience? A.—Possibly so, but when we have learned a thing to be bad, we have learned it. The Appleyard lesson burned into us the importance of management, and the Cornwall affair burned into us another lesson, the importance of population. Now there was no trouble at all with the Cornwall street railway except the lack of population.

Q.—That sounds like a radical evil in dealing with the Traction proposition? A.—That is right. The Cornwall Street Railway was well built, honestly built, and money was put in behind the bonds to a considerable amount. We did not advance the whole amount there at all. There was a considerable amount of money equal I think to something like 30 or 40 per cent. of the par value of the bonds, put in in hard cash behind them, but trouble arose simply and solely because of lack of population.

Q.—Really do you tell us that you had to go by the experience you had

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with the Cornwall Street railway to have that proposition burnt into you, to learn that lesson? A.—In the first place that was our very first investment.

MR. KENT:—Q.—I suppose it is really because the population did not travel on the tram cars? A.—No, Mr. Kent, it is because there was not enough population to travel. I dare say they travelled as much as in other towns of its size, but there was not the population to travel.

MR. SHEPLEY:—Q.—Perhaps it is more difficult to cure that pernicious habit of walking there? A.—There are two points that I really think we ought to learn in connection with this Cornwall matter. As I have said, it emphasized the importance of population, but it also emphasizes the importance of not putting restrictions in our law by which we are confined to Canadian corporations and Canadian towns.

Q.—I must protest I think to your drawing a comparison between Canadian and foreign investments? A.—If I may be permitted to say a word or two, that was our very first investment in a traction security, and it is a security that, but for the law which ties us down to Canadian securities, we would not have put our money into such a small enterprise as that. Any law that limits us so that we have to give preference to Canadian things simply because they are Canadian, even though the population is small, is very very unwise in my judgment; and another thing, it makes for greenness and inexperience. Why is it that we have learned so much more? It is because we have had a chance of getting experience in all parts of the United States and Canada. We have had a whole continent open to us. If it had been that we were still limited to Canada in the first place, our fields for investments would have been very small. Of those that would have been really suitable, we would have had very few.

Q.—According to what you have just been saying, you would have been learning a bitter lesson all the time? A.—I should think we would.

Q.—You would have acquired experience more rapidly than you have? A.—We would have been shut out pretty much from this class of security. We would either have to drop this security altogether or take poor ones.

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Q.—You had a considerable experience in Levis County Railway bonds? A.—Yes, same lesson exactly.

Q.—How much? A.—\$100,000—I correct that, and say \$85,000.

Q.—\$100,000 bought at 85? A.—Yes.

Q.—Did you have to foreclose on your bonds? A.—There was \$250,000 of bondholders, and we held \$100,000, and the bondholders foreclosed.

Q.—Who is running the road? A.—The bondholders.

Q.—A life insurance company is taking part in running another road as the result of investment in the traction proposition? A.—Yes, and again, there there was a very large amount put behind those bonds in hard cash, but the lesson again shows the folly of any kind of restriction that limits us to Canadian enterprises. We would not have invested in the Levis County matter were it not for the restriction.

Q.—You did not invest in it knowing it was bad? A.—We had thought it was good, but knowing it was inferior to those in the United States. It was as good as we could get in Canada.

Q.—How much did you put in Montreal Terminals? A.—We put in \$500,000 and are coming out of it nicely.

Q.—And that was at one time bad? A.—There was never a time when we stood to lose, but the question was whether we could get a profit, but I grant our experience there is—

Q.—Did it cost you a good deal of money to boom those securities? A.—None at all—to boom the securities?

Q.—Yes? A.—In what way?

Q.—In any way? What money have you expended in connection with these terminals and because of these terminals? A.—We spent some money in protecting our right against the Montreal Railway building a line to parallel this line.

Q.—Is there anything else? A.—I do not think there is anything else.

Q.—Will you look it up? A.—Well, I do not think there is anything.

MR. LANGMUIR: Q.—Have you a list of the failures of the United States Traction? A.—I have not seen such a list.

Q.—Is there not a journal where it could be found? A.—There is a street railway supplement to the Financial Chronicle, but I think experience shows that comparing trac-

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tion securities with any other class of securities except high grade municipal or government bonds, that they have shown up very much better than any other. I do not think the steam railways can hold a candle to them.

Q.—Let me see what we can get from your own history with regard to the very question which the learned Commissioner asked. We have got Cornwall, we have Columbus, London and Springfield, we have Dayton, Lebanon and Cincinnati— A.—I would like to emphasize this, that take, for instance, the Dayton, Lebanon and Cincinnati, and the Columbus, London and Springfield, in those particular instances, taking them, although those companies have gone through foreclosures, their bondholders are not losing one cent, and never have.

Q.—You have written \$80,000 off your bonds? A.—Yes.

Q.—And \$145,000 off your preferred stock? A.—Yes.

Q.—Written \$225,000 off your bonus stock last December? A.—Yes.

Q.—The Dayton, Lebanon and Cincinnati—you have written \$15,000 off the bonds, and \$380,000 off the bonus stock? A.—Yes.

Q.—The Decatur Railway and Light Company, you have written \$881,000 off bonus stock there? A.—No, sir; we surrendered them and got 60 per cent. Illinois Traction stock for that, and made a lot of money.

Q.—You did not write that off? A.—No, we surrendered that for something better.

Q.—You wrote off Central Market Street Railway \$67,000 off the preference stock, and \$100,000 bonus stock written off? A.—Yes.

Q.—New Hampshire Traction Company: You exchanged your bonds there for preferred and common? A.—Yes.

Q.—And you have had two writings off there? A.—Yes.

Q.—The first writing off was \$10,000 off the preferred, and \$40,000 off the common, and then there was another writing off? A.—Yes.

Q.—Dayton, Springfield and Urbana, \$125,000 written off? A.—Yes.

Q.—Denver and Montana? A.—That is a steam road pure and simple.

Q.—There are some instances in that way in your own company of what may happen to a traction proposition? A.—Now, I would like, if

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I may, to just tell what I think our experience of this, in regard to the quality of traction securities—

Q.—Does it teach you more than this, that with a proposition which is founded upon a good foundation and with good management and under satisfactory control, you are likely to make money, while if these elements are absent you are likely to lose money? A.—I do not think that is all that it teaches. Our idea in regard to traction securities, after all the experience we have gone through, is this: That if you take the bonds of any good traction security, whether it is well managed or poorly managed, on the whole—there may be odd exceptions—there is no kind of security that is not good—but taking the bonds as distinguished from the preferred stocks, taking the bonds you run very little risk if the directors are all wise in their selection; if you take a company that has no competition, a good franchise, and present earnings that are at all sufficient to meet the necessity, it is almost a dead certainty that those earnings will rapidly increase, and the bonds will become safer and safer. Our experience, has, however, taught us that it is necessary, or desirable, to draw a sharp distinction between bonds and preferred stock. Now, I would most urgently and strongly oppose any restrictions upon bonds at all. There is nothing to show it is desirable to make any restrictions upon them. I do not say they are perfect, because you can make losses on mortgages or anything else, but I think I would be quite willing to admit that our own experience has shown that perhaps it is desirable to make a restriction in the law in regard to preferred stock. I do not deny that in the least. If I myself were framing the law I would say, put no restrictions upon bonds, that that would be in the highest degree unwise, but I would rather see a rule by which preferred stocks, or common stock, either, should not be legal to a life insurance company unless they have paid dividends upon the common stock; not necessarily upon the preferred, because the preferred may be new issue—unless dividends have been earned and paid on the common stock for at least two years. I think that this Appleyard thing, for example, teaches us the un wisdom of investing in preferred stock in the early stages of a com-

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pany, because you have no legal holding. If instead of these preferred stocks we had had bonds, we would have had no trouble, Appleyard or no Appleyard. We would have turned him out through foreclosure sale, but in any investment in preferred stock I think it is not unreasonable to put a restriction on them.

MR. KENT: Q.—In reference to the Montreal Terminal, I do not see exactly how you can defend that transaction. You have spoken of the necessity of having a good road through a good locality properly managed. Does the Montreal Terminal come under any of these categories? A.—The Montreal Terminal was another of the very early investments we made when we first began. The position of the Montreal Terminal when we made that investment was this. It ran down from Montreal to the foot of the Island, and had net earnings just about sufficient to pay the interest charge upon the entire bonded debt, including the building of their city line. Then they were to build nine miles of track in the city, and we reasoned that, “here the suburban part will carry those bonds, the interest is there, it is being earned now. Whatever they can get upon the city line will be additional.” But it came as a result of that, and partly from what we saw in connection with the Central Market, that one of our positive rules is that we will not touch a competing road in any city. That is one thing that can be learned from that. People talked of the advantage of two lines in one city.

MR. SHEPLEY: Q.—That is from the standpoint of the passenger? A.—But from the standpoint of the investor, it is a mighty poor thing.

MR. KENT:—Q.—Is it not a fact that a company like the Sun Life, holding the bonds of the Montreal Terminals, enabled it to be a nuisance and a thorn in the sides of the other company from the very first moment of its existence. Is it not the fact to your own knowledge that that company as far as the City of Montreal is concerned, has never earned sufficient to pay for greasing the wheels? A.—I grant the Montreal Terminal Railway has a mission or has a use as a suburban railway, and in those olden days we had a great idea about the desirability of having a competing city railway, but

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my ideas have all changed on that point, and I have no use now for a competing city railway.

Q.—No more than you would have use for a competing life insurance company? A.—Well I have some use for them.

MR. SHEPLEY:—Q.—Now, I want to take up another subject, and it is connected with these bonus stocks. I want you to disclose to us your company's method of book-keeping in connection with these bonus stocks, and first take your ledger at page 192—that is where the bonus stock account is kept, and then take your profit and loss account at page 342. I want to get the *modus operandi* in connection with these accounts. Now when you acquired the bonus stock you acquired it, as you have already told us, as an inducement towards your purchasing bonds? That is the usual way of acquiring it? A.—Well I would agree with that, but your question might be misconstrued.

Q.—If you do not misconstrue at all, I do not care? A.—The public or the Commissioners may construe that as meaning we would put this question of bonus stock so much to the front that we would consider it equal with safety, but safety is the first thing we consider, and the next thing is to get as good terms as possible.

Q.—Now that you have removed any possible difficulty with respect to your being misunderstood, you will answer this question? Do the bonus stocks specifically, always or nearly always come to you as an inducement to invest in bonds? A.—Yes, just in the same way as the difference in the rate of interest.

Q.—If the same bonds or bonds of the same issue are brought to you by two proposed sellers, A & B, and A will give you twice as much bonus stock as the other, you would take from A? A.—Certainly.

Q.—When you in your book-keeping deal with a transaction by which you have acquired certain bonds with an addition of bonus stock, you make all the entries in connection with the cash you have paid out in your bond account, or in the account in which the bonds are carried? A.—Yes, that is ignoring the bonus stock.

Q.—And what did you do in your books with regard to the bonus stock? A.—We carry the bonus stock to bonus stock account, and in order to keep track of it so that it will not be overlooked, we charge one dollar, just so as to keep track of it.

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Q.—This is the account at page 191 and 192, is it? A.—Yes.

Q.—Now if you will just let us have it so that we can carry it in our minds. The first entry on page 191 is to Mexican L. & P. Company \$1.00? A.—Yes.

Q.—What does that mean? A.—It means that there was an entry by which we obtained—it means we had obtained a certain amount of the bonus stock of the Mexican Light and Power Company, the details of which would be got under that head.

Q.—The entry does not show what the face value of the stock was? A.—Not that entry, but another entry here does.

Q.—This entry does not? A.—That entry deals with cash only.

Q.—And the sum of \$1.00 put opposite it is the sum which has no existence in reality. It is put there for some convenient purpose in the book-keeping of the company? A.—Just to keep track of it.

Q.—If you ever dispose of that stock, if any thing happens in regard to it, does it go on the other side of the account? A.—Yes sir, just in the same way.

Q.—One dollar? A.—\$1.00.

Q.—The illusory nature—I do not use the word in a bad sense, the illusory nature of that sort of entry I think I can test by asking another question, supposing you disposed of half of that bonus stock, would you carry it into this account at half a dollar or a dollar? A.—I suppose we would put it in as a dollar or something of that kind. I have not really faced that problem. All we want is a system by which we can keep track of things, and if that system is not perfect, we want to make it perfect.

Q.—I want to know if you see any objection to this as a matter of book-keeping and as a matter of record, precisely in its essence as it is. You acquire \$150,000 bonds and \$150,000 bonus stock by the same transaction, and it cost you 90 cents on the bonds or \$90,000. What is to prevent you from entering in your ordinary account where you enter the sum of \$90,000 paid, entering in that account that you have that day purchased \$150,000 of bonds and \$150,000 in stock for \$90,000? What is to prevent you doing that? A.—There is nothing to prevent it, but we consider—

Q.—Well, is that not the real transaction? A.—Yes, but it is already

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shown, I think I can turn up that particularly.

Q.—Supposing I am entitled to find out and I want to find out what you have on hand in bonds and stocks. I go to your ordinary securities account, and I do not find any reference to bonus stock at all, do I, unless you have realized on them? A.—No.

Q.—Don't you think it is desirable that the person who is entitled to information should be able to get it in that account? A.—I do not think he should go to this account where it is all put together.

MR. LANGMUIR: Q.—Is it all massed together there? A.—Yes.

MR. SHEPLEY: Q.—You have not anything except this account that masses them together? A.—We have them here together under one heading. I see the point now. Well, there is no different mode whatever between our treatment of this and our treatment of our other securities.

Q.—Do not say that. Turn up your account of stocks and bonds. You have just told me that these do not appear in that account at all, unless and until you realize, or unless you write them up, or something of that kind? A.—Well, wait till we look at it. Here is our regular account showing exactly how we treat our other securities, and here they are mentioned with no more detail than there are in the other place, and you have to go to the other book just the same way.

Q.—The first entry, January 6th, 1899, to Montreal bonds, 1879, \$1,037.50? A.—Yes.

Q.—That means that for Montreal bonds you have paid out that amount?

A.—But it does not give the details of the par value of those bonds or anything more.

Q.—It states what you have paid? A.—Yes.

Q.—It does not say \$1.00? A.—In the other case it is \$1.00 in the account. If you want to get the details of what that represents you have to turn to the account, and the same way with the other.

Q.—Of course the thing is not supposable, but let me put by way of illustration, if with those Montreal bonds you had got some stock as a bonus, could you not have bracketed that stock with those bonds and carried out the amount, \$1,037.50, opposite the joint entry? A.—Certainly we could, but it would be a duplication of the entries.

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Q.—If you did that you could drop your bonus account, which is an illusory account? A.—I do not think we could.

Q.—Why? A.—We want to have entries of the bonus stock independent of the bonds.

Q.—Why? A.—To keep track of them.

Q.—Why do you want to keep track of them separately? A.—We want to have an entry of them. I am not taking the position that our system is infallible and cannot be improved upon. I do not take that position at all, but I do take this position, that we devised the means that we thought was best calculated to take care of these things. I dare say it is capable of improvement, but we devised the means we thought was the best of doing it.

Q.—I am not saying anything to the contrary of that, and I am far from saying the ideas I am putting to you are the best on the subject, but I am asking you to see whether you and I together cannot agree that something better may be done than what you are doing? A.—It is quite possible to put that in and I see no objections to it, except the duplication of the entry.

Q.—If you do it there, what necessity for duplicating the entry in a fictitious stock account of \$1.00? I do not use the word "fictitious" in any objectionable sense, but it is an account which is no use to anybody.

MR. LANGMUIR: It is a mere memorandum.

A.—I know that, but we considered it was necessary to get a separate entry for those bonus stocks. I do not wish to criticize Mr. Shepley, but I would consider that to not have a separate entry for every bonus stock would be a decided backward step. With all deference to Mr. Shepley's contention, I consider our present system is infinitely better.

MR. SHEPLEY: Q.—I am making suggestions, and they are suggestions that occurred to me, but they may not be wise? A.—Turn up any securities that we got a bonus stock with and you will find the terms set forth in full. For example, here we have the Mexican Light and Power Company interim certificates for 3,000 shares. Par value \$300,000. Date of certificate; and then purchase price, etc. Bonus with bonds 100 per cent.

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Set forth in full, and there is the explanation given in exactly the way Mr. Shepley desires.

Q.—How can I ever find that unless I know that with the Mexican Light and Power bonds you got Mexican Light and Power stock? A.—You would have to go through our whole bond book the same way.

Q.—If I go through your bond ledger account I will find all the bonds you hold? A.—Yes, and if you go there then you find exactly what bonds we hold, arranged in the same convenient form.

Q.—Stock, you mean. A.—This is bonds. No, This is stock, but wait a moment.

Q.—I want to know why you keep them apart, why I should not by looking at a single account, know your whole transaction. A.—That is what I claim you can do, Mr. Shepley, I will show you.

Q.—Not unless I go back to the original entry or look at several accounts the existence of which is not indicated to me in any shape or form. A.—Take this entry right here now. The Rio Janiero Light Tramway and Power Company. That is marked 30 year gold bonds. The details, the date of maturity, rate of interest, how payable, where payable, date of purchase, number of certificates that we got, par value of each purchase, the particulars in regard to price etc., 90 per cent. and 100 per cent. stock bonus. How the instalments are paid, and then any sales on the other side. Giving it in the greatest detail. Then on the next page right here we have the full statement showing exactly what the terms are, as clearly expressed as the English language will permit. What we say is this, that this gives what Mr. Shepley desires, but that it is not enough. We want to go a step further. We say that this bonus stock might get overlooked unless we in some way or other can put a cash entry or some kind of entry in our books. Therefore, for the sake of keeping track of it we shall charge that up at \$1 and on the next page we have Rio Janiero Tram Light and Power Company, capital stock granted as bonus in purchase price of bonds 100 per cent. There it is set forth in detail.

Q.—The answer to that is very simple as it seems to me: this is not a book of account at all, it is a record. A.—The book of account is here.

Q.—Your ledger is a book of account. A.—Yes.

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Q.—Now let us go back to the ledger. Page 191. On the 31st October, you had a certain transaction in Mexican Light and Power bonds. You also had a certain transaction in Mexican Light and Power stock, those transactions being part of the same transaction. That is right, is it not? A.—Yes.

Q.—Now, what you have done is to put one transaction, the bond transaction into one account and the stock transaction into another account in the ledger. A.—Yes.

Q.—You affix the reality of price and terms to the bond transaction in your ledger and you omit that reality in your bonus stock transaction as you enter it in your ledger. That is so, is it not? A.—Yes, charge \$1.

Q.—You omit the reality? A.—Yes.

Q.—And you put a fiction—I do not say a wrong fiction—but you put a fiction? A.—Yes, \$1.

Q.—What object is gained by not putting the bonus stock in with the bonds in the bond account? The bond account is an account which embraces stock you buy, does it not? A.—Yes.

Q.—It is not bonds only but stocks you pay money for? A.—Yes.

Q.—What objection can there be to your putting in that one account all the stocks you acquire at the price at which you acquire them? A.—The bonus stocks cost us nothing.

Q.—Do not say that. A.—That is our way of looking at the matter.

Q.—The bonds plus the stocks cost you what you paid, the 90 or 85 cents, whatever it may be? A.—Our way of looking at the matter is that the bonds cost us that.

Q.—Is it impossible for you to look at the matter the other way? A.—I don't think that we would be able to save much money if we cut the bonus stock right out. Take these Illinois Traction bonds; I am perfectly certain that even if we never got a single cent of bonus stock that we could not have got those below 85.

Q.—I am not suggesting anything to the contrary. The transaction you entered into was the purchase of a certain number of bonds and a certain number of shares of stock at a price? A.—Yes.

Q.—That is the real transaction, is it not? A.—Yes.

Q.—Then why not enter the real transaction in the account? A.—These are book-keeping details which were threshed out very thoroughly

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with our own auditors, P. S. Ross & Sons, who stand at the very head of the profession, in this Province at any rate. And among the highest in Canada. And they and we have agreed that we are doing the thing in the very best way possible. If a thing is satisfactory to such a firm as P. S. Ross & Sons, it ought to be satisfactory to anyone. That is my judgment.

MR. KENT: Is not this a fact; if P. S. Ross & Sons did not please you, it would be quite easy to engage another auditor, and they are aware of that fact? A.—P. S. Ross & Sons have been the auditors of the company since its foundation and one of the rules of the company is that the auditors shall be chosen by the directors and the management shall have no voice whatever in their choice. The management have no voice at all and never have endeavoured to have, in that respect, and P. S. Ross & Sons look upon themselves—I am quite sure they do not look upon themselves as being possible to be turned out. They look upon themselves as fixtures.

Q.—But you have already acknowledged that your auditors and yourselves did not agree upon some parts of your book-keeping. A.—And when we talked it over, this very point Mr. Kent raised, some time ago, it was a friendly difference, we discussed the matter and they finally agreed that perhaps I was right and in a friendly way they expressed their satisfaction after the discussion to carry it out in the way we had been doing. Our books are carried out in a way to be satisfactory to P. S. Ross & Sons, and I think that ought to be a final end to any discussion as to whether our book-keeping is good or bad.

Q.—Then are we to understand that if P. S. Ross & Sons were satisfied the Government of Canada should have nothing to say? A.—No, but I think the Government will agree that P. S. Ross & Sons are as good authority as you can get from the Atlantic to the Pacific, and if they think a thing is right, it cannot be very far wrong.

MR. LANGMUIR: We discovered one company where there was no book entry at all; a mere memorandum in the file along with the papers. Now, if there had been such a thing as Mr. Shepley speaks of, or such a memorandum account, that could not have occurred. A.—Well, it is

because we saw that danger, we realized there is that danger, that we devised this plan which we thought, and which was intended by us, to try to get around it. I do not say that we have managed it perfectly, but that the system we have was devised with the express and only purpose of trying to avoid that kind of thing.

MR. SHEPLEY: We call that method that the Commissioner has referred to, the stone age. You may be in the wooden age with yours, but you do not get much further. Supposing you sell and realize money, not \$1, but actual money for some bonus stock, what entry do you make on the credit side of this account? A.—A credit of \$1.

Q.—That is not a real transaction, of course? A.—No, the balance would be credited to profit and loss.

Q.—It does not appear here? A.—No.

Q.—This account does not show anything about what you realized in respect of these stocks? A.—The object of that \$1 entry is to get the entry into the cash book and from the cash book into here and these other books, posted from there.

Q.—You run away from the thing I am trying to get from you. There is not in this bonus stock account, kept in the ledger, a single figure that is not fictitious, is there. A.—The \$1 is fictitious, but it is a deliberately designed fictitious amount to keep track of it, and we do not consider that the ledger is a proper place to look for these things. We say, here are the books of account, if you want to know what bonus stock we have, turn up here.

Q.—Why don't you do that with the stocks and bonds for which you pay money? A.—That is exactly what we do do.

Q.—Here in the ledger? I want the ledger account of your stocks and bonds.

MR. R. MACAULAY: Permit me to make one remark. Mr. Shepley is astray, he is a very able lawyer, but he is no book-keeper, very evidently.

MR. SHEPLEY: I do not profess to be.

MR. R. MACAULAY:—The ledger does not show particulars regarding policies or premiums. We have particulars in any number of books to show our premiums. The same here. I have sent to the office to get two

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books to show every bonus stock we ever got, initialled, and where it is by two directors, and what has been done with it. This ledger does not attempt and it is not intended to show the details of everything. Premiums, for instance, you will find the details from the cash book. No accountant ever goes to the ledger to find the details of anything. Mr. Kent can tell anybody that.

MR. SHEPLEY:—Here is your bond account. Your bond account includes the stocks for which you pay money, does it not? A.—Yes.

Q.—And on the debit side of the account you put down every sum of money that you pay out. A.—The total for the month only.

Q.—Well, the total for the month then, that you have paid out for the month for bonds and stocks. A.—Yes.

Q.—All but the bonus stocks. A.—But no details. The total for the month, grouping together all the transactions for the month. If you want to know the details of that you have to turn to this book? Now we do exactly the same with the bonus stocks. We treat them identically the same, with this difference, the one is the actual cost price and the other, the so-called fictitious \$1.

Q.—I thought it was the only difference myself, and I have been examining in that view. You do not think that is any difference. A.—Well, that is all the difference there is.

Q.—You do not think that is any difference; I understand you now.

MR. R. MACAULAY:—Here is the book I sent for; into this as we get the bonus stocks we enter every one with its description and with another column of details, and then comes the initials of two directors who see to that stock being put into the vault. Now, if Mr. Shepley will look at that he will see that there is every share and half share that we ever got.

Q.—I wish you would quite believe that I am willing to look at every book, but I cannot look at more than one at a time.

MR. R. MACAULAY:—It is simply attempting to make something out of nothing. The papers will refer to this tomorrow morning and will give the public the impression that there is something seriously wrong, and that the directors have been putting into their pockets stocks that they never had anything to do with.

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MR. KENT:—This may be the reason for the remarks Mr. Shepley has made. In examining the companies in Toronto we found many of these transactions. I do not remember a single case where there was any difference in the way in which they were entered in the ledger. On one side, the left hand page of the ledger, was always the full transaction. On the right hand side was set out with equal detail all the bonus stocks. When the bonus stocks were disposed of the entry was made: if the bonus stocks were disposed of for a certain figure it was credited there, and when the books were balanced the difference was carried to the credit of profit and loss. Now in my humble estimation that is the proper way.

MR. R. MACAULAY:—Every company has its own way of doing things. This is our way of doing things and unless you are able to show me the thing is wrong, why find fault with it?

MR. KENT:—When fifteen companies out of sixteen adopt one method, and only one adopts the method of the Sun Life, we are bound to inquire the particular reason why the Sun Life thinks it necessary to use this particular form of book-keeping.

THE WITNESS:—In following out that I may say we in the olden days did not have this fictitious entry of one dollar.

MR. SHEPLEY:—Did you do in the old days what I suggested would be desirable. A.—Just exactly, I think.

Q.—That is, you put it in your bond account? A.—I think so. That is we put the details of the transaction.

Q.—Why did you stop that? A.—We began to realize that that did not provide a sufficient check against things dropping out of the accounts. The origin of that was a discussion I had on this identical subject with one of the officials of a large company in Toronto. Not a life insurance company, a loan and investment company, that had a large amount of bonus investment stocks, and this official told me, he said in order to keep track of these things we charge them all up at \$1. I said that is a good idea and we adopted it as an improvement over the system Mr. Shepley is recommending.

Q.—I have not recommended anything. I am asking what objection there is to the other method. A.—No

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objection except that it is not sufficiently detailed

Q.—Then, if you want more detail why don't you have a bonus stock account in which the real transaction that you have is recorded? A.—We keep track of all the bonus stocks we have here.

Q.—Somewhere else. Now this is the book Mr. Robertson Macaulay has spoken about. This is called "record of securities in vault." Is that solely for bonus stock? A.—Yes.

Q.—Is this the only one you have? A.—There is one prior to that.

Q.—This commences on the 28th November 1905. A.—We have two of these books, one for regular securities, and one for bonus stock.

Q.—There are two columns for figures; one is bonus stock deposited. The other bonus stocks withdrawn. What is the meaning of those two headings? A.—This is a book we keep of securities deposited in our vault. No security is ever deposited or withdrawn from the vault without the signature of a director and either the president or myself as representing the management. We used to have only one book, combining bonus stock with the other securities, all in one item, but about a little over a year ago, we thought the entries were getting large and it was desirable to divide them and we, from that date on, made a division, one being for the regular securities and the other for the bonus stocks. Take for instance Rio Janiero. There was \$60,000 that was taken out. These initials mean that the director, "J. T." James Tasker and "R. M." the President that they vouched for the fact that these were taken out and nothing else. Every deposit or withdrawal from the bank has to be vouched for in that way.

Q.—From the vault. A.—For the express purpose of preventing anything being improperly taken away.

Q.—Now if you will listen to a question or two and try to answer them. Does this book and its predecessor contain all the bonus stock you have. A.—Yes.

Q.—Or that you ever had? A.—Yes.

Q.—Does it contain anything else besides the bonus stock? A.—This one does not. Its predecessor was for the two kinds. At the present time we have two books, one for the regular securities, and one for the bonus stock, a division being made between the two, two books instead of one.

Q.—Then this book standing by itself does not contain all your bonus

stock, we have to look through the predecessor and separate them from the other securities. A.—Yes. Now they are separated from that date onwards.

Q.—Then you have told me, I think, that it does not contain anything but bonus stocks, this particular book. A.—No.

Q.—Then when a bonus stock is deposited you fill in this column the face amount of it, do you? A.—Yes.

Q.—And when it is taken out or disposed of or anything done with it you fill up the face of it in the other column. A.—Yes.

Q.—Bonus stocks withdrawn. It does not profess to show what you have done with it beyond withdrawing it out of the vault? A.—No, that is merely a book that keeps track of the securities in the vault.

Q.—It is not an account book at all? A.—No.

Q.—It is a mere record? A.—Yes, it is a record of all securities deposited or withdrawn from the vault, the object being to insure that no improper withdrawals could be made.

Q.—You see now that it does not at all meet the difficulty that is in my mind, and which I am trying to communicate to yours. That is that you have not assembled into any one account all the particulars of your dealings with securities of this nature. A.—We have treated this in exactly the same way as anything else. We have treated the two things exactly in the same way except that one is the fictitious dollar and the other the real thing.

Q.—Then I will try to get on without making you feel that I am unfair to you, if I can, for the rest of the examination about this. You have told me that if you sell or exchange any of these bonus stocks it does not appear except with the entry of \$1 opposite? A.—Yes.

Q.—Similarly if you write up or down any of these securities that does not appear in this account. A.—If we would write it down in the way of writing off a bonus stock it would be just the \$1 would be written off. If we would write it up it would be just the reversal of the \$1 in the same way.

Q.—But you would not make the entry opposite that stock \$2 instead of \$1 if you wrote it up, you would leave it at \$1. Supposing you wrote up because of the appreciation of Illi-

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nois Traction, as you did, half a million dollars, that would not appear in this account anywhere? A.—I think it would appear for \$1.

Q.—Now let us look at page 342, profit and loss account on bonus stocks. What securities are covered by this profit and loss account? A.—It is our old profit and loss account. In the olden days, as I explained once before, we had only one profit and loss account. Afterwards we subdivided it so as to make a profit and loss on sale of securities of any kind. This is an old profit and loss which represented losses as distinguished from losses on investment. And also the entries in connection with bonus stocks, the one dollar.

Q.—Now, supposing you had a bonus stock to the extent of \$50,000 accompanying some particular bonds, and supposing that stock became saleable, marketable at a substantial figure, say 50 cents on the dollar, and you got \$25,000 for it. What entry would you make in this profit and loss account? A.—There is one thing that I have just noticed for the first time that these dollar entries that came in here, I think they ought to have gone to the profit and loss and sales of securities, these dollar stocks.

Q.—I am asking you a specific question. I know how it is in the book, but I want it on the record. What entry would you make in the book for bonus stock which had a face value of \$50,000 and had become marketable and you sold it for \$25,000? A.—One dollar credited and \$24,999 would go to the profit and loss on sale of securities.

Q.—You would not find that transaction recorded here, either? A.—No, it would be recorded in the item profit and loss on the sale of securities.

Q.—Similarly when you wrote up the traction stock would that entry appear here? A.—No, just a dollar.

Q.—Now, is the other account in this ledger called profit and loss on sale of securities.

Q.—Why are the two accounts kept? A.—Simply because we did not think it desirable to mix up things like a defalcation of an agent with a profit on an investment.

Q.—Then you are surprised to find that there is a record in the joint profit and loss account or the main profit and loss account of these bonus

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stocks? A.—My own personal idea is that they should have taken everything relating to securities out of the common profit and loss account.

Q.—Then when you get to profits on sale of securities, you come to the place where you make the real entries? A.—Yes.

Q.—And if you sell a bonus stock and realize money for it or if you write it up that appears here? A.—Yes.

Q.—If you write it off it appears here? A.—Yes, if you write off a bonus stock?

Q.—Yes, if you write anything off after you have written it up. There are no dollar entries in this. A.—Apparently not.

Q.—Just one other feature that I want to ask you about in connection with your book-keeping methods. Supposing you trade one security for another neither of these securities have any established market value. What is the result of that in your books? A.—Well, whatever the price is that we get and whatever the price is that we pay, whatever the price is, it is put in the books. Whatever the arrangement is, it is expressed in the books.

Q.—You may, I do not say you do, but it is quite possible for you to make exchanges at figures which are not anywhere near representing the real market value of properties, when there is really no market value at all. A.—That would be theoretically possible.

Q.—For instance, take some of these securities that you were trading with Mr. Appleyard. Those only acquired a value by reason of your transaction. A.—Those, most of them, were listed, when we took them they were listed on the Cincinnati Stock Exchange and selling at prices higher than we paid for them. When you are dealing with inactive securities you have just got to judge of the value as best you can. That is all there is to it.

Q.—That is the figures at which you make the exchange theoretically fix a value, but they may not practically fix any value at all? A.—Well no, I would not say that. Everything has a value, but some are active and some inactive.

Q.—Supposing you have an inactive security which is not marketable because it is inactive A.—By the

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term inactive is meant securities that are not listed upon stock exchanges and are not readily sold. The way these bondholders sell their securities is this, by sending out travellers like commercial travellers, that go all over the country and call on all the little national banks and private investors and sell them. They have a market value in that way. If we were to try and sell them without their connections we might have difficulty. It is not a security that you can go on the stock exchange and get your cash at once. It is like a piece of real estate, you cannot go on the stock exchange and sell it.

Q.—I am adopting your word inactive. Supposing you have an inactive security in the sense in which you speak and supposing another man has an inactive security in the sense in which you are speaking, and if he thinks it would be to his advantage to exchange with you, and you think it to your advantage to exchange with him, so that you come to a basis on which you exchange, if you are trading on even terms it does not make any difference if you trade at par or 50 cents on the dollar? A.—No, except that if it went through at 50 cents on the dollar that would be an admission that it was only worth 50 cents on the dollar, whereas good faith requires that it should be put through at as nearly as possible the real value.

Q.—And that, I suppose is what you try to do? A.—Precisely.

Q.—If you were to keep a record of what every security cost you, you could always tell whether your exchanging, at the figure at which you are exchanging, was at a profit or loss? A.—Precisely, and we have that record. We can tell at a moment's notice what ever a thing cost us.

Q.—But what you carry in your books as the book value is not necessarily the cost value? A.—It is the cost value unless we should have written it down.

Q.—Or written it up? A.—The writing up, apart from the Illinois Traction, or one or two others, there has been no writing up in our company.

Q.—Unless you had written it down or up the cost value is what is shown as the value in your books as the book value? A.—Exactly.

Q.—Of course the cost value may be very much disturbed and may completely disappear as book value after

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you have written up or down? A.—It could disappear after being written down. Not after being written up. It would be still there as part of the larger value.

Q.—As cost value you are no longer able to distinguish it from the entry in the book. A.—Yes, if we look at it, we could tell at once how much was cost and how much was written up or down.

Q.—But the value at which you are carrying it is not what it has cost you? A.—No.

Q.—I do not think I will take up time with instances, and I think, unless there is something Mr. Smith would like me to ask, that I am through on this branch of the inquiry with Mr. Macaulay.

MR. SMITH: I would like you to ask Mr. Macaulay one question. Mr. Macaulay has told us the investments amount to something like \$21,000,000. A.—\$24,000,000 now.

Q.—Is there any entry in the books or any instance of any transaction with directors save and except the one you have already explained? A.—By which any director would make any profit of any kind, nature or sort out of the company, not one.

MR. SHEPLEY: You are not intending to limit that in any way when you said "the books"?

MR. SMITH: No. Tell us in a general way what is the revenue of the company per annum.

MR. SHEPLEY: Permit me, what is your annual revenue from year to year? A.—Last year five and a half millions. This year somewhere about six million of dollars. That is in a rough way.

MR. SMITH: Would you ask Mr. Macaulay whether any director, directly or indirectly, since he has been connected with the company, to his knowledge, has made any profit whatsoever through any transaction with the company or any subsidiary companies, or anything of the sort.

MR. SHEPLEY: Has any director, to your knowledge, Mr. Macaulay, from the beginning of your connection with the company till now, ever made any personal profit whatever out of any dealings of the company or of any subsidiary company of the kind we have been talking about or otherwise? A.—To the best of my knowledge and belief not one solitary dol-

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lar, not one solitary cent, since I became connected with the company, and that is in October, 1877, nearly thirty years ago.

MR. KENT: Mr. Macaulay, is it your opinion that the Sun Life is the best company in Canada or the second best? A.—The first, sir. No exceptions.

JUDGE MacTAVISH: We will meet in the room immediately adjoining this to-morrow at 10.30. This room is to be occupied, commencing at 10 o'clock, for an hour or so.

MR. SHEPLEY: If this room is to be occupied it might be better for us to wait until it is free.

MR. KENT: It will probably be more than an hour. From 10 to 12, I think.

MR. SMITH: If there are several judgments to render, it will take at least the morning.

MR. SHEPLEY: I can foresee a good deal of difficulty in the Commission sitting in that little room. However, whatever your Honours say.

JUDGE MacTAVISH: We will try to ascertain in the meantime whether we can get some more suitable room in the Court House. Everyone interested will know beforehand where we will sit.

MR. SHEPLEY: I will file the following papers now. The agreement of 17th August, 1903, between Appleyard and the Sun Life Insurance Company with the letter of the 16th October, 1903, from Mr. Macaulay to Mr. Appleyard. (Exhibit No. 626.) The Annual Report of the Illinois Traction System for 1905 (No. 627). Statement of bonus stock (No. 628).

At 4.30 p.m. on Wednesday, 24th October, adjourned till 10.30 a.m. on Thursday, 25th October, 1906.

NINETY-FIRST DAY.

MORNING SESSION.

Montreal, October 25th, 1906.

SUN LIFE ASSURANCE COMPANY.—Continued.

T. B. MACAULAY, Examined by MR. SHEPLEY: Q.—Then, Mr. Macaulay, I was proposing this morn-

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ing to go into a somewhat different field. I suppose the insurance aspect of this enquiry to you is as important as any other? A.—Yes.

Q.—And no doubt you have given a good deal of attention to the various questions that have been agitating this commission since it began? A.—I have given a great deal of thought to these questions.

Q.—Now, in the case of your company, you have been how many years in operation? A.—We began business in May, 1871, so that we have been 35 years and over.

Q.—And in the course of that business you have had to face and deal with nearly all the, perhaps with all the insurance questions that arise in this enquiry? A.—I think with all.

Q.—In the first place what do you say with respect to participating insurance as compared with non-participating insurance, first from the standpoint of the director and shareholder, and secondly from the standpoint of the policyholder? A.—What aspect of the matter do you refer to?

Q.—Well from the shareholder's standpoint do you like participating insurance or non-participating insurance—A.—In our company, seeing that we combine both participating and non-participating policy holders into one branch, and the stockholders get five per cent. of the profit of the one or the other indifferently, naturally it is better from the stock holder's standpoint to get participating policy holders, because they get five per cent. upon a larger amount of profit.

Q.—And that is so with regard to practically all the insurance companies so far as you are aware? A.—No sir.

Q.—I do not mean that that feature is so, but that that preference for participating business—

JUDGE MacTAVISH:—The same reason exists. A.—I think not your honor, because our rule I think is different from the rule of most other companies. Most companies give a certain percentage, say ten per cent. on an average usually from with profit policies and all the profits from without profit policies, and it is just a question which of the two would be greatest.

MR. SHEPLEY:—Q.—At all events in either standpoint the share holder is interested in having as few policy holders as possible competing in the divisions of profit? A.—I do not think that that exactly follows, because

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the more policy holders we have, the more there is to divide, and of course we would rather—I mean if we were looking at it from the standpoint of a shareholder,—we would rather get participating policies than non-participating, but I must say this that that way of looking at the matter which Mr. Shepley has suggested, is the very first time that the question has ever been presented to me in that light. We just want to do as much business as we can, and we let the policy holders choose which they like.

Q.—And I suppose participating policies appeal to the universal desire on the part of the investor, as well as to the universal desire on the part of the man who wants to protect his family? A.—Yes, they are decidedly the most popular.

Q.—And perhaps the idea of participation in profits on the part of policy holders sprang from that very circumstance, that a more popular policy could be made if a policy holder were promised a share in the profit? A.—No sir. The origin of participation in life assurance is due to the fact that in the early days it was unknown just what the rate of mortality would be, and everything was rather indefinite and it was felt that in a mutual company the proper plan was to charge an amount which would certainly be sufficient, and then return whatever amount experience showed was not required.

Q.—But that is different from profits? That is only returning the excess of what he has paid over the cost of carrying his insurance? A.—That is what I have been meaning by the word “profit.” The word “profit” is used indiscriminately in general practice for surplus in life insurance.

Q.—And surplus arises, potentially at all events, not only from savings in expense, but also from profits that are made upon these savings? A.—Surplus or profit arises from other sources; saving in expense, if any, the excess of interest beyond that calculated upon, any saving in mortality being less than the—

Q.—Less than the mortality upon which the contract is based? A.—Yes, and any profit made upon investments these are the principal sources, although there is sometimes added so-called gains from lapses, but that is not really a profit, but an allowance that should go against expenses.

Q.—Then your plan as you have already told us in the early part of your examination—or perhaps it was Rob-

ertson Macaulay told us—your plan was originally to divide profits amongst your policy holders at quinquennial periods. A.—Yes.

Q.—When did you begin issuing policies deferring for specific periods longer than five years the division of profits? A.—1884.

Q.—You have, I have no doubt, some clearly defined views upon the deferred schemes of insurance? A.—I have.

Q.—Do you favor it or not? A.—I do favor it very strongly.

Q.—Then you would no doubt be quite able to tell us what views there are in its favor, what arguments or reasons there are in its favor? A.—In the first place there is nothing wrong or immoral or in itself objectionable in the system. I would like to emphasize that point.

Q.—That is a negative virtue? A.—Yes. Then it has popularized the system of life insurance tremendously. There are thousands of persons now assured who would not have been assured at all but for the fact that the companies have this plan of insurance. There have been thousands of widows who have been protected by their husbands having had policies, whose husbands would not have assured at all but for the special inducement held out by that form, and therefore it has been of untold benefits to the community as a whole, by popularizing and extending the blessings of life assurance to an extent that certainly would not have taken place without it.

Q.—Then before leaving that, what do you conceive to have been the popularizing feature about that scheme? How did it appeal to the ordinary man upon the street? A.—In the first place it makes more prominent than ordinary policies the investment feature.

Q.—What do you mean by the investment feature? A.—It provides that a man at the end usually of twenty years, may readjust his policy, so that at the end of 20 years if he no longer needs the insurance he can draw the full reserve upon his policy and all the accumulated profits, and on the other hand he can readjust it in one of many other ways, because there are a number of options given in that connection. Now when an agent goes to canvass a person, if he can only talk about the necessity of protecting that man's family against the risk of his death, he will appeal to a certain class of people, and only to a certain class,

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but if he is able to say "this thing is a good investment for yourself, besides incidentally giving protection to your family," he will persuade great numbers of people to insure who would not otherwise insure at all. Young men who are not yet married, or men who are married, and who have great confidence in their longevity will say, "Why should I insure? I am a good life. I am not going to die,"—those people will be persuaded to take out policies when they otherwise would not be persuaded. But they do die, although they do not expect it, and their widows are protected as a consequence.

Q.—You would put as the popularizing feature the fact that it offers investment? A.—Offers investments, and also that it gives the opportunity to the agent to talk to a man in this way; he can say, "You can look forward the next year or two in your life and know what you want, but what are you going to be 20 years hence? What are your circumstances to be then? You do not know. During the twenty years you want to protect your family, but by that time they may be all married and no longer need protection. You yourself may be hard-up at that time, you do not know how you will be situated in 20 years. Now there is a policy that gives you this option and the other option, and the next option, and you can re-adjust your contract at that time to your circumstances as they will then exist." It gives a splendid talking argument to the agent.

Q.—And that all falls under the same head? A.—Yes.

Q.—Then what other argument is there to make it popular, or have you exhausted that? A.—Those are the principal points in making it popular. I look upon this deferred profit scheme as exactly in the nature of a bait. When a person goes fishing, if you go with a poor hook or mighty poor bait, you will not catch any fish, but if you have a first-class hook you can catch good fish, and you have an attractive form of policy, the kind of insurance the people want, is just to provide the agents in such a way that they can catch more fish than they otherwise would, for the benefit of the fish in this case.

MR. KENT:—Q.—The better the bait, the better the fish? A.—Exactly.

MR. SHEPLEY:—Q.—What other argument is there in favor of that kind of insurance. First it is not im-

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moral or wrong, and secondly it is popularized, what is next? A.—In the next place it attracts to the company the very best class of lives that can be got anywhere.

Q.—Just explain that a little? I do not follow that? A.—The kind of person that will be attracted by a kind of policy that protects against death only is in too many cases the kind of man who doubts himself a little bit. He may be able to pass the doctor, but still he, or at least a certain proportion of those who insure for the whole life, just have a little bit of doubt about themselves, but on the other hand the class of man who is appealed to, and who expects to live and make his money, draw his money or profits, is the man who has confidence in himself, and the class of people who have confidence in themselves, and who say "I will make my plans about drawing my money twenty years hence," that class of life provides the very best mortality.

Q.—I should have thought that was rather a matter of temperament than physical health? A.—It is a thoroughly established fact that the mortality in different classes of insurance varies according to the plan. The mortality amongst persons who take temporary insurance payable only if a man dies within a few years, is heavy. The mortality amongst those who take whole life policies, with the premiums payable for the whole of the life, and the sum assured payable at death only, is better, but still only about normal. Those who take limited payment and endowment policies, especially if they are on the deferred profit plan, show a vastly improved mortality.

JUDGE MAC TAVISH:—Q.—Is that the experience of your company? A.—It is the experience of our company, and not only of our company, but of others—

MR. SHEPLEY:—Q.—Have you that experience tabulated? A.—I have some figures right here that I can give you on that point.

MR. LANGMUIR:—Q.—Take that feature of it, the old fashioned insurance payable at death instead of at the expiration of five, ten, fifteen or twenty years, as the case may be; in the latter case the man gets that money;—that is under certain features of the policy—gets that money at twenty years. He is a strong healthy man, and he is of a speculative turn of mind. He may go in and speculate and lose the whole of that money that

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was intended for his family. What do you say to that? A.—I say that that of course is a possibility.

Q.—You know the world is full of that class of men, and they are only relying upon such insurance at their death? A.—There are several points to remember about that. In the first place a large proportion of these people would never have had any insurance at all.

Q.—Perhaps not? A.—There is no question about that. And in the next place when you speak of five, ten, fifteen and twenty years, it is almost always twenty. We never issue any five, very few ten, and comparatively few fifteen, and the great bulk is twenty.

Q.—Is that not people looking for an investment of their money? A.—It is to a certain extent, but it is a perfectly correct and proper investment.

Q.—I am not questioning that. It is all very well with men who have money to invest, but take the poorer man who wants to make provision after his death for his widow and young children, and if he gets that money before his death, five, ten, fifteen or twenty years, he may squander it altogether? A.—He may, but on the other hand I think it is equally necessary that a man should protect himself against his old age. I think that is absolutely one of the necessities of life insurance quite as much.

Q.—I admit that is another and a good feature? A.—And this is really a plan by which a man can protect himself against his old age, and he can take an annuity possibly for his whole life instead of getting it in one sum.

MR. SHEPLEY: Q.—You do not issue policies against old age, sickness and disability? A.—No.

Q.—Disability? A.—No.

Q.—Nor old age? A.—No, except in this endowment feature or the full endowment. While in practice we are willing to issue policies of that kind, and we do issue them, I do not think in the company's history we have issued ten deferred annuities, but we are willing to do it.

Q.—What other argument is there in favor of deferred dividend scheme of insurance? A.—You were asking me whether there was any comparison that could be made between the lives assured on different plans. I have here some jottings on that point,

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quoting from a table published by Mr. Arthur Hunter, the actuary of the New York Life Insurance Company, in the transaction of the Actuarial Society of America, where he analysed the experience of that company, bringing it all down to a theoretical table, which I will not trouble you with, as to what it ought to be if it was normal. According to his judgment this was the experience: whole life without profits 127 per cent. of the expected mortality. Whole life with profits 110 per cent. of the expected mortality; full endowment assurances 81 per cent. of the expected mortality; limited payment life—that is like twenty payment life with the deferred profit feature, which makes it a limited endowment—76 per cent. of the expected mortality; so that we have all the difference between the 76 per cent. on the one hand and 127 per cent. on the other, showing the tremendous difference there is in that respect.

Q.—Do you know how these figures were prepared? What periods were taken for the respective classes? A.—They were all put upon the same rate, and the comparison is fair.

Q.—I do not mean on the same rate? A.—On the same basis.

Q.—What period? For instance you take a whole life— A.—I wish to make a little correction there. It is some time since I jotted this thing down, and it does not say in my jotting it was the New York Life. It was Mr. Arthur Hunter's experience. He prepared it, but Mr. Wood—I would like to say that I have been greatly indebted to Mr. Wood, our assistant actuary for these figures. He has done nearly all the work in this connection, and I wish to give him credit for doing the work in this matter. The figures I have quoted are not the figures of the New York Life, that was a slip, they are the figures of the combined British Life Assurance companies covering 30 years, from 1862 to 1893, and therefore they embrace an immense volume of statistics, and are unquestionably prepared on the proper basis.

Q.—I would just like to ask a question or two about that. I do not venture to doubt it. I just want to see if you know how the calculations were made. For instance if you take the whole life policy, and you take any particular term of years, you will be embracing within that term of years a lot of lives that are falling in? A.—Yes.

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Q.—That are due to fall in? A.—Yes.

Q.—If on the other hand you take your 20 year endowment policy, or your 15 year, or whatever the term is of endowment policies, and take a similar period, you are having from the very nature of things, a fresher lot of lives? A.—That was fully guarded against. Mr. Hunter prepared this theoretical standard with the express purpose of guarding against that difficulty. The basis was that in the first place on insurance the mortality ought to be about 50 per cent. of that predicted by what is known as the American Table, that it should gradually reach with the duration of the insurances till it should reach what he considered the normal maximum of 90 per cent. of the American table, and then it remained uniform, so that he guarded against that, so as to put them all on an equal footing.

Q.—That would seem to me a very difficult thing to do in a preparation of such a table, to eliminate all the incidental factors of that kind? A.—It is difficult, but this was prepared by one of the ablest men that we have, to meet that difficulty. He just said taking all the statistics that he could get what would be a fair normal rate of mortality for the first year in policies, and he hit upon that as 50 per cent. and I may say that that is the same rate that the council of the Actuarial Society of America, combining the best actuaries in this continent, settled as in their judgments a fair rate. Then he said, as the second year came around, that the effect of the initial selection would wear out a little bit, therefore he said the second year ought be a little bit higher than the normal rate. I have not jotted down the exact rate, Mr. Wood has given it. The second year the percentage assumed was 60 per cent. of the normal rate, the third it was 70 per cent. of the normal rate, the fourth year 80 per cent. the fifth year 85 per cent. and thereafter 90 per cent. of the normal rate; so that in that way he endeavored according to the very best judgment he had,—and his judgment is confirmed by that of other actuaries,—to eliminate this effect of selection, and to put all the plans upon a basis where they could be compared with absolute fairness, because his object was to know just how they would compare when fairly selected.

Q.—Is it fair to say then that the table, while no doubt the result of great care and skill, has not only the

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experience factor in it, but the factor of assumption in respect to these matters? A.—Yes, but an assumption that is believed by all actuaries to be very close to the absolute facts. I can give you some more figures along those same lines if you desire.

Q.—Unless they are useful to the precise enquiry I am making now— A.—I have the experience of the North Western Mutual and our own experience.

Q.—In respect of these matters? A.—Yes.

Q.—What is your own? Never mind the North Western? And who is responsible for the figures? A.—Mr. Wood is responsible for the figures. With your permission, as Mr. Wood prepared these things, I will let Mr. Wood state it himself.

MR. SHEPLEY:—Yes, let him be sworn.

WITNESS:—Of course we worked in conjunction, but he did all the work, and it is right that he should get the credit for it.

ARTHUR B. WOOD, (Sworn.) Examined by

MR. SHEPLEY: Q.—What are these figures? A.—These are figures prepared from our own company's experience showing what our mortality has been on three different plans, the 20 year endowment with a reserve dividend period of 20 years; the 20 payment life plan, with a reserve dividend period of 20 years, and the ordinary life plan with profits allotted every five years, and this experience has been tabulated and the expected deaths calculated by the H.M. Table, the Standard in use in Canada. We find that in the case of the 20 year endowment plan the actual deaths were 59.2 per cent. of the expected. That is taking the H.M. table as 100 per cent. On the 20 payment life plan—which by the way includes the largest proportion of our deferred dividend policies—the experience was even more favorable than on the 20 year endowment, the percentage being 54.3 per cent. On the whole life plan, with profits allotted every five years, the actual deaths were 67.6 per cent., showing a considerable advantage of both of the deferred dividend plans.

Q.—Now, will you tell me two things; in the first place the volume, the number of lives by comparison between these three schemes? A.—

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This is based upon the amounts assured. I can give you the amounts assured which will give you the same comparisons.

Q.—Perhaps approximately it will?

A.—In the case of the 20 year endowment plan the total amount exposed to risk was \$28,769,540. Under the 20 payment life plan we had \$112,715,338. On the ordinary life plan with profits every five years, the amount exposed to risk was \$37,499,702.

Q.—Then is it fair to say that you are more apt to get correct results out of a large volume than out of a small volume—that is results that can be relied upon as being uniform? A.—Yes, the larger experience of course gives the better result.

Q.—When you say “better results,”
— A.—The more reliable result.

Q.—And I take it heretofore that your estimate of the 69 per cent. in the case of the participating whole life with distribution every five years is not so apt to be reliable as the other? A.—The whole life includes a larger amount than the 20 year endowment, but not so large as the 20 payment life.

Q.—The total exposed risk \$28,000,000, \$112,000,000, \$36,000,000; but your most reliable table would probably be that where the volume of insurance was \$112,000,000? A.—Well, I think we had a sufficient amount in each of the other cases to give very fair results.

Q.—What you have told me was that you compared your experience with expected mortality? A.—Yes.

Q.—How did you get the expected mortality? A.—The total business under these plans was tabulated according to the age at entry, and carried on through until it went off the books, or until the experience closed. Then from that I obtained the number of lives that had been exposed to risk through each year of age. That amount exposed the risk multiplied by the proper rate of mortality for that age by the H.M. Table. The sum total of those results give the expected claims for that business, and so we compared the actual claims with that.

THOMAS B. MACAULAY. (Examination resumed by Mr. Shepley.)

WITNESS: I was going to interject the word in the way of pointing out that considerable weight must be attached to these figures, and they are not liable to fluctuate very much, when they are sub-divided in the way

they are here. On the stright life plan, taking the years of duration of each policy, one to five inclusive, and the mortality is 71.3 per cent.; and six and over 65.9 per cent., they do not vary very much. Then on the 20 payment life the rates are for policies, five years and under in force 57.3; and for those six years and over 50.3, showing a very close correspondence; and exactly the same peculiar feature in regard to the rate for the first five years, being a little heavier than for the subsequent. Twenty year endowment the rates for the first five years were 60.2; and six and subsequent 57.8 per cent. The fact that all these figures are so close to each other when sub-divided shows that there is not much fluctuation, and furthermore that while they have a little peculiarity all three groups have the same peculiarity of being a little heavier in the first five years.

Q.—That seems extraordinary? A.—It is a little extraordinary. I would not expect it. But it shows it is.

Q.—How would that tally with the principle of selection? A.—Selection is of two kinds, one is selection in favor of the company resulting from the care that the company takes through its medical department in weeding out bad lives. The other is selection against the company by which persons who doubt themselves, or are fraudulent cases, squeeze themselves in. Our mortality as you notice after five years, has been marvelously low, that means that our medical selection has been very, very favorable and I can only say that we have had just now in all our classes of fraudulent or doubtful cases to run up a little bit in the earlier years, but even then in all cases it is not that the mortality is heavy in the early years but that it is particularly low in the later years.

MR. LANGMUIR: Q.—What do you call fraudulent? What is your explanation of the word fraudulent? A.—People who are not good lives, who deceived the company.

Q.—Who knew it themselves? A.—Who knew it themselves. There is a selection against the company by people, not only the fraudulent cases but genuine cases. There are actual frauds by people who deceive the doctors, but there are also a great many persons who do not lie, but just manage to squeeze in through the doctor's hands.

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MR. KENT: Q.—People who do not state the whole truth. Supposing you have a man who has reason to believe that he has some mortal disease that is not apparent to the doctor? A.—That would be a fraudulent case. A man might realize that he is a little bit weakly—

JUDGE MAC TAVISH: Q.—Not very sure about himself? A.—Yes.

Q.—And feels that he is not under any obligation to tell the truth? A.—He feels a little bit weak and the Doctor passes him.

MR. SHEPLEY: Q.—You would not expect to find the experience during the first five years greater than the proportion after the fifth year? A.—No, I would expect to find it lower, but in reality when you look at it, it is not that the experience in the first five years is excessive on the basis Mr. Hunter has adopted. It is very moderate. The peculiar feature is the marvelously low rate of mortality after the five years.

Q.—It is rather significant is it not, in its bearing upon the whole question of medical selection and the benefit of medical selection in early years? A.—I am sure if we did not have medical selection we would have an awful death rate.

Q.—You have heard claims put forward—probably you have put them forward yourself, that by reason of careful medical selection the death rate is abnormally low during the early years of the policy. That is not a new story to you? A.—No.

Q.—Do you think the figures you have given us are consistent with that? A.—Yes, our death rate even during the first five years is abnormally low, but it is still more abnormally low in the later years, which just means that our medical department has succeeded in bringing the rate down even during the whole course of the policies, but part of that, as I have pointed out, means that in the case of the endowment policies and the deferred profit policies, the selection by the man himself has helped to bring it down by getting the best class of lives, to assure people who had confidence in their own longevity.

Q.—I see that in one of these cases, the endowment, the 20 year endowment,—another table has been made use of, the Modified Health English Table. Perhaps Mr. Wood will tell us about that. The figures are somewhat different. 81.5 in the first five years, and 61.5 in the remaining

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years? A.—Will I answer or Mr. Wood?

Q.—Let Mr. Wood answer?

MR. WOOD: The Modified Health English table was the standard selected by the Committee of the Actuarial Society of America in preparing what is called their mortality experience a few years ago. That is the table which was taken as representing very closely the normal rate of mortality which might be expected to prevail in a well managed life insurance company and it was selected as being the most suitable standard by which to measure the deaths in the various classes of insurance under investigation in order to compare them one with the other. That table gives a lower rate of mortality than the H.M. table, which accounts for the fact that the percentage is higher.

Q.—That takes a more favorable view of mortality than the H.M. table does? A.—Yes.

Q.—And the results according to that table, are, in your experience proportionately higher under that table? A.—Yes.

(Document filed exhibit 629).

T. B. MACAULAY examination resumed by

MR. SHEPLEY: Q.—We will pursue the subject a little further. We were talking about the deferred dividend scheme of insurance, and you were speaking of this favorable experience in mortality as one of the features — the favorable features about the scheme. What else is there? A.—Another favorable feature in connection with it is that it tends to reduce the lapse ratio, persons hang on to their policies better when they expect to get their profits all at the end of 20 years, than if they were getting them as they went along, and it tends to keep the policies in force.

Q.—You will have to elaborate that for me a little, if you please. Why is the lapse feature a factor in what the man insuring takes into consideration? A.—If a man realizes that he is going to get a considerable sum of money if he keeps his policy in force till the end of 20 years, and that he will lose the profit unless he keeps it in force to the end of 20 years, he is going to strain a point to keep it in force in a way that he would not if he did not lose anything at all.

Q.—The man who does not persist till the end of 20 years, does not get any profit? A.—No.

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Q.—He loses his proportion of profits, although he may have been paying premiums for 19 years; he loses all that, and those members of the class who survive take it all. A.—Yes, only the profits, nothing but profits.

Q.—That you say is a feature? A.—Yes.

Q.—It makes the insurance more persistent? A.—Yes.

Q.—What argument is there before we go further with the general scheme, what argument is there in favor of forfeiting of profits in case of lapses in the 20 years? A.—There are very few men who need to lapse their policies if they want to keep them up. The company has an automatic non-forfeiture provision. It has very liberal loan provisions by which a man can borrow money on his policy, and if he surrenders it, it is because he wants to surrender it, and I see no objection at all to letting the benefit go to those who continue to pay, those who keep their policies in force—

Q.—That again is a negative answer, you see no objections. I asked, what argument is there in favor of it? A.—Well I have been giving a number of arguments.

Q.—That particular feature, saying to a group of men “come and insure with us upon this plan and we will make profits for all of you, and the survivors will take all the profits, and the others will not get any”— A.—This is the key note in favor of the whole plan.

Q.—What are arguments? A.—These arguments I have been giving are part of the argument because it is by representing those facts to the man that he is induced to insure. He realizes that if he keeps his policy in force he will get so much and that is the key note of the whole system.

Q.—That you appeal to the speculative instinct that is supposed to be in the bosoms of the public? A.—I would not call it speculative.

Q.—There is perhaps a stronger term than that. “We will all put into the pool and the man who keeps on putting into the pool will get it all, and those who do not will not get any”? A.—I would put it that it is a penalty to those who drop out rather than a gain to those who stay in.

Q.—Punish them for dropping out? A.—Exactly.

Q.—And reward the man who stays in and takes all the risk? A.—Yes.

Q.—And that does not strike you as appealing to a speculative instinct if such a thing exists anywhere? A.—

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I do not know. I suppose there is a little vein of speculation in most people but that is a mild form of speculation. If the speculation never went further than that there would be very little evil.

Q.—Have you ever thought, just before leaving that and coming back to the main channel again, have you ever thought of grading the division of profits, so that those who stay in all the time will get full share, and those who stay in part of the time will only get a proportionate share? Has that ever struck you as a fair method of dealing with this scheme, or would that rob it of its charms for the insuring public? A.—We have done that already to a certain extent, because we give larger surrender values to those persons who were assured on this plan, if they drop out during the course of the term than we do to those insured on the ordinary plan, so that to a certain extent they do get a little back in the form of a surrender value.

Q.—It would be possible to formulate a perfectly equitable scheme by which the share of profits which each receiver could be made proportionate to the pertinacity with which he has paid? A.—I think we have got it down as fine as—

Q.—That could be done? A.—It could be done, but it would destroy the whole plan.

Q.—It would destroy the whole plan because the essence of the plan is the right of the survivor? A.—Yes.

Q.—Then returning again to the main current of our talk, what other feature is there about this method of insurance which makes it desirable? A.—It is specially applicable to the insurance of many forms of slightly underaverage lives. This is a plan we have not adopted in our own company, but I know it has been adopted very largely in other companies of putting persons who are just a little bit under the average, but really not considered bad lives, with the same class of impairment, or impairments of about a similar degree, into a group, and then saying “we will wait till the 20 years is up, and we will then decide how much profits we will give, and the profits will be affected by the mortality which we cannot at present foresee. If the mortality is only normal in the group we will get full profits, and if the mortality is heavy it will be reduced. My only argument in connection with that is

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that some companies have considered it a desirable plan. We have thought seriously of adopting it, but we have not done it, but will do so in the future.

Q.—Is there not an argument against the adoption of that which has occurred to you whenever you thought of it? A.—It would not be suitable for impairments that were very heavy, but for moderate impairments I see no objection.

Q.—No objection has occurred to you on the face of the scheme? A.—No, for lives that are moderately impaired I see no objection.

Q.—You would not think it was an element at all, that if you were insuring impaired lives they might not last twenty years—They might not any of them last the 20 years? A.—We have never had a class of lives that were so bad as that.

Q.—You have not adopted the scheme? A.—But we have adopted a scheme where we have insured lives worse than that—this is only applicable to lives slightly impaired.

Q.—You have not at all events so far adopted it? A.—No.

Q.—You are not immediately thinking of adopting it? A.—Not just now.

Q.—Is there anything else to be said about it? A.—The last and final argument it seems to me, is that seeing it is a plan that popularizes life insurance, that extends the blessings of life insurance, and attracts the best lives to the company, and as these other conditions I have spoken about exist, there can be no objection to it unless there is deception in it. Now just speaking for our own company, I think we have furnished to the commission a statement showing that of all the policies that we have paid up to date we have paid 97 per cent. of all the amounts that were estimated in cash.

Q.—That is not peculiar to this form of insurance, this method of insuring? A.—No, but in the way of emphasizing that, seeing that it have these advantages, and seeing that the general objection that has been made to it, is that estimates are not carried out, what I say is that in the case of the Sun Life Company, estimates in the past have been very nearly carried out in a time they had higher estimates and lower premiums, and that now we have on hand in accordance with the statements that we have furnished to the Commission enough funds to the credit of our deferred profit policies to provide \$108, or

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\$107.99 for every \$100, required to carry out our present estimates for all our policies in force on our books on the deferred profit plan; so that what I am saying now, is not in the nature of a direct advantage for the plan, but in the way of removing what is generally looked upon as an objection to the plan.

Q.—You in your company have lived pretty well up to your estimates. That is what you have to say in regard to that, and I suppose you are quite aware that in other companies there has been quite a different state of affairs? A.—In some companies, but we are speaking for ourselves only.

Q.—I am rather concerned at present with the general aspect of this method of insurance? A.—In 34 per cent. of all the policies of insurance we exceeded all, our estimates.

Q.—I am trying to get rather the excellence of this particular method from the general standpoint? A.—I think I have given enough to show it is pretty good.

Q.—And if you tell me that in your company it is a good thing because you do not fall short on your estimates, while in the other companies the estimates are not realized, that does not seem to be a general reason? A.—I have given a number of positive reasons that in my judgment are very strong, and I have taken up the other objection raised against it, and I am saying that it is not my business to speak for other companies, but I say, speaking for ourselves, the objection does not apply.

Q.—Because you have lived up to your estimates in the past? A.—And have enough on hand to live up to our estimates in the future.

Q.—Then with respect to the proportion of profits which you would give to participating policy holders, you have had two provisions altogether in your constitution, your by-laws, is that right? There is the original by-law 18, and then in 1897 you passed a new bylaw on the subject? A.—There have been one or two intervening ones.

Q.—I do not know that we need waste time taking intervening ones, but your original provision was set out here? A.—Yes.

Q.—And the second provision is as set out here? A.—Yes.

Q.—This is the original provision (Reads by-law)? A.—Yes.

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Q.—I see you kept separately the surplus arising under participating and non-participating business? A.—Yes.

Q.—And the shareholders were entitled to all that arose from non-participating business? A.—Yes.

Q.—With respect to the participating business, the shareholders got 20 per cent. and the policy holders 80 per cent? A.—Yes.

Q.—That was the intention? A.—Yes.

Q.—But the policy has to be in force for three years before it would share at all? A.—Yes.

Q.—What does it mean by "equitably dividing according to the contribution plan." What is that? A.—It is a term known in the United States in particular by which the profits were divided according as they were supposed to be contributed by the policy holders, the original idea being that it should be divided, each source of profit to its own source,—each amount of profit to its own source.

Q.—Excess of interest? A.—Excess of interest, saving in mortality, saving in loading; in course of time that became modified and it became the practice, and I think almost the universal practice in the United States to drop out the question of saving in mortality, and to put the saving in mortality right in the general account, and only divide two ways in proportion to the loading and in proportion to the excess interest earned.

Q.—Then this contribution plan did not take into consideration the profits arising from surrender and lapses, did it? A.—I do not think it ever did. It certainly does not in general practice now.

Q.—Where the contribution plan is followed, in dividing surplus, who gets the profits from surrenders and lapses? A.—The profits from surrender and lapses are put into the general fund and are therefore really put as an offset against expenses to that extent.

Q.—Then in 1897, May 18th, you passed this by-law—and that is the one which is now in operation, "a yearly balance shall be struck and presented at the annual meeting." This takes the place of the one we have just read? A.—Yes.

Q.—I pause here for a moment to ask a question or two with regard to that. There you have abandoned or discontinued the method of keeping separate the participating and non-participating business? A.—Yes.

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Q.—That is the first difference that is to be noticed? A.—Yes.

Q.—Then you have provided not for the distribution of any particular portion of the net surplus, but of such portion as you see fit to distribute? A.—Yes.

Q.—What was the reason of that? Was that for the purpose of keeping the control in the directors hands, maintaining the control which your statute gives you, of course, of such portion as may be distributed you see? A.—I do not know that we ever thought of it in that light, in the way of retaining the director's control over the matter, but it was felt that the directors and management should have the final say in what amount should be distributed.

MR. KENT: Q.—I suppose it was giving you the opportunity, if you liked, of distributing more? A.—More or less as we thought was wise.

MR. SHEPLEY: Q.—In practice can you tell me roughly and in outline how you ascertained the portion you would distribute since this by-law was passed? You see you have a combined fund arising from both participating and non-participating business. Now what did you do by way of ascertaining what portion of it you would distribute? A.—First of all we find out what amount we have on hand for distribution.

Q.—Available? A.—Available for distribution. Then we figured out just what amount—we make up our mind about what amount we should divide in wisdom. Then we figure out the amount that we could give to each of the policyholders in the way of surplus interest, and in the way of a return from the loading, in order to use up about that amount, and then we fix a basis accordingly, and then distribute on that basis.

Q.—You have left some of it out I am sure, because you have not said anything about the five and ninety-five per cent. But let me take just what you have said. First you ascertained about what sum it would be wisdom to divide up or to distribute? A.—Yes.

Q.—To distribute, having regard to what? What are the elements that enter into that consideration? A.—The elements that would enter into that would be several. In the first place we would desire if possible to at least maintain the rate that we had been paying in the past, and if it

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could be done without straining the company to increase the rate. In the next place we feel that we had to give full weight to the question of how much margin we ought to retain on hand as a matter of safety, and in the third place, if there was an increase in reserves, or anything of that kind, that had to be provided.

Q.—That has been provided for before we come to this consideration? A.—What is the date of that amendment?

Q.—May 18th, 1897? A.—That was passed in 1897 before the amendment of the law of 1899, and when applying that, of course one of the considerations we had to take into account was how much could we put aside, that year, towards complying with that law in the way of increasing the reserve.

Q.—That is a special circumstance. You see this by-law reads, "The yearly balance to exhibit the net surplus," (reads). All those are to be considered and provided for before you arrive at the net surplus when you are going to take a portion of it for distribution? A.—A company would try to increase its reserves apart from the law, and if we had a prosperous year we would say, "we can increase our reserve a little more this year," and when it was not a prosperous year, not as prosperous a year, we would say, "We will not put aside so much for reserve this year, but we will try and keep up the profits of previous year." We looked at it from the broad standpoint of what was wise and practical to pay.

Q.—Can you go a little further into detail. Can you tell me approximately what percentage of the net surplus arrived at after providing for all outstanding claims, and for full reserve and paid up capital, what proportion of the net surplus then found you had in fact distributed? A.—In the earlier years of the company, when the profit earning power was not as great as it is to-day, we retained very little, because we felt it was good policy to distribute all that we possibly could, but of recent years when we have been earning very much more, we have felt it was a good policy to retain a little more in hand. We have no definite rule. We have been governed by expediency in every case.

Q.—You can of course if you will do so, tell me exactly what your net surplus has been every year and what you have carried to distribution ac-

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count every year? A.—I think we have that.

Q.—I want to get it on the record in a narrative form. I suppose you have thought sometimes of a sum? You have considered it in this light; what sum of money is such a sum that five per cent. of it will pay a fixed dividend of so much to our shareholders? A.—Never sir.

Q.—Never did that? A.—No.

Q.—You have paid fixed dividends to your shareholders? A.—Yes, but we have never looked at it from that standpoint. The question has always been what we could give to the policy holders from their standpoint, and the standpoint of what was best for the company.

Q.—Is not the company the same as the policy holders? A.—No, it is not. Well, it may be, but we think our plan is to treat our policy holders as well as we can.

Q.—Are you making a distinction between the company and the policy holders? A.—From the standpoint of giving as much in cash to the policy holders and doing as well for the company.

Q.—What do you mean by the company? A.—Consisting of the stockholders and policy holders. We were strengthening the reserve held in hand for their protection.

Q.—Your shareholders I think would have grounds of complaint that you were not looking after their interest, that you did not consider them at all; you considered the policy holders, and then the company, the shareholders and policyholders combined, but never considered the separate interest of the shareholders? A.—The question you asked me was whether we had been ever influenced in the amount of profits we would distribute to the policy holders by the question of what the shareholders proportion of that would be.

Q.—What dividends you would give? A.—And I say never.

Q.—Then have you got that in such shape that we can refer to it? A.—I have this statement.

Q.—This is a statement itemized from your Annual Reports and it commences with 1897 and comes down to 1905. You give the assets on the 31st December in one column, each year. The total liabilities at the same date in another column. The profits paid. That means profits paid to whom? A.—To policyholders only.

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Q.—And it is the net surplus at the 31st December. That was hardly the shape in which I wanted it. What I wanted to get was the sum that you ascertained as net surplus and as to which you divided in the proportion of 95 and 5 per cent., commencing with 1897. Have you that in any shape so that I can get at it? A.—Here is a memorandum showing how we did for one particular year.

Q.—Perhaps that will be sufficient for my purpose. This is 31st December, 1898? A.—I will let Mr. Wood explain that.

MR. WOOD recalled: Q.—This first statement will be useful in another connection but it is not of value to us just now. Division of profits, 31st December, 1898; summary; cash profits. Cash value of bonus is that? A.—Yes, cash value of bonus. That was the amount which we ascertained in the way Mr. Macaulay had suggested as being the amount to be distributed to policyholders on the 5 year distribution plan.

Q.—It seems to me the statement rather commences, having regard to the provision of the by-laws, at the wrong end. I should have thought that you would start with ascertaining what you had on hand, what the outstanding claims were, what the reserves were, and what the paid up capital was, then deducting all these from the amount on hand, leaving a net surplus and that then you would determine what portion of that net surplus you would distribute. I am following the by-law. Can that be ascertained? A.—The total amount of profits declared as ascertained in that way was \$154,000 in that year.

Q.—How was that arrived at? A.—In the manner in which Mr. Macaulay has explained to you.

Q.—It does not seem to have been arrived at by following the terms of the by-law. Do I make myself plain to you, Mr. Wood? If you were an accountant or actuary charged with arriving at a particular fund, under the terms of this by-law, how would you go about it? You would first ascertain what you had on hand? A.—Yes, the assets and liabilities and the surplus of the company.

Q.—The assets? The liabilities being the outstanding claims, the reserve, and the paid up capital? A.—Yes.

Q.—And then you would strike a balance? A.—Yes.

Q.—And that balance you would treat in such a way as to show what

portion of that you were going to distribute? A.—Yes. That could not be ascertained from here. This simply shows the amount which we decided we could distribute that year to the policyholders entitled, including the portion which goes to shareholders.

Q.—How does that \$154,000 compare with the surplus that you actually had over and above outstanding claims reserved and capital? That perhaps will be shown by the other statement? A.—1898. The surplus remaining was \$254,000.

Q.—\$254,398? A.—Of course provision must be made for the accruing policies issued in other years and which are not included in that.

Q.—The figure in the first column assets, would show the total assets of the company at that date? A.—Yes.

Q.—Then in the next column the total liabilities? A.—Yes.

Q.—Those liabilities will include all the matters mentioned in this by-law? A.—Yes.

Q.—The difference would be this \$254,000? A.—Yes.

Q.—That would be your net surplus at the 31st December? A.—Yes.

Q.—Then you say the directors decided that out of that \$254,000? A.—\$154,000 should be divided, should be allotted.

Q.—Now, are you aware whether or not any discussion or resolution with regard to that appears upon the minutes? A.—I think Mr. Macaulay can answer that better.

MR. T. B. MACAULAY recalled: Q.—I want to know what executive action appears upon your minutes with regard to that? A.—I was not listening. I would make a correction, if Mr. Wood said the directors decided that, I would change that and say the actuary and management decided it.

Q.—I suppose they are subject of course, to the direction of the Board? A.—Yes, but the position is that while the directors under the Charter are supreme in that matter, they under the by-laws have nominated the actuary as the person who shall decide this question, and the actuary in consultation with the President, and the Assistant Actuary does decide it, and this was the way this was decided.

Q.—Then we understand that that is a decision of the executive? A.—Yes.

Q.—Then, Mr. Macaulay, will you be good enough to tell us, if there is no executive record, what the process

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was which on the 31st December, 1898, or shortly thereafter resulted in setting apart \$154,000 out of \$254,000? A.—There is one point that I should have taken into account when speaking about the factors that we took into account when deciding how much could be divided, and that is the amount that has to be kept on hand for deferred profit policies.

Q.—That is all dealt with here. I am not having any trouble with that.

A.—I have not mentioned that in my previous remarks.

Q.—I am trying to get at the sum you did before you came to this \$154,000. From that down, your statement carries it out perfectly and I understand it quite. A.—I remember the general details about how it was done, but as to the exact figures I will have to refer you to Mr. Wood.

Q.—Was it made the subject of exact figures? A.—Oh yes, certainly. Sure. Always.

Q.—Then what were the elements? A.—Just exactly the ones I have told you, that we figured out how much, in our judgment, we could give, and in figuring out what that amount was, we would say, Now in order to maintain the same rate of division in regard to the loading profit, for example, as in previous years, it will be so much. How much can we give on that? And still keep within what we would feel justified in giving? Then, in like manner, how much can we give in the way of interest profit, calculated in proportion to the reserve? Then we would add those two things together and make a number of calculations until we would say, there is a basis which is about what we can afford to do this year. Settle that basis and how much on that basis will this come to. When we have found that out there is the sum.

Q.—Could you without too much labor, produce, I do not mean these precise figures, but a hypothetical sum on paper which will show just what you did, in principle I mean. A.—I think Mr. Wood has that right here.

MR. WOOD recalled.

Q.—I do not care so much for the exact figures. A.—These are the figures for the 31st December last year. Here is the calculation made last year for 5 year distribution policies. I have taken off all the policies for various years of issue. That includes everything, all the policies in our company, all previous to 1887 grouped together and then I have made an estimate the whole calculation is in

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here, a very close approximation, showing the amount of money that we should have reserved on hand at the 31st December last year in order to be able to pay the rate of profit which we were paying or thought we would pay last year and which we subsequently did pay on policies coming due this year. That sum totalled up to \$388,922.

Q.—This is headed, 5 year distribution policies, 31st December, 1905, surplus reserve to offset the accrued surplus upon 5 year distribution policies on basis of previous distribution adopted December 31st, 1905. That seems to be putting the same thing in more elaborate language. Then you have grouped the policies from 1887 back in one group. A.—Because they come in one year for distribution. They are the old policies which have participated since the foundation of the company.

Q.—Then you have taken each year after that separately. A.—Yes.

Q.—What is the date of the last division? A.—The date when these same policies last participated in profits. They received profits every five years.

Q.—At the last division you had given them what? A.—We distribute our profits, as Mr. Macaulay has explained, in proportion to the loading and value of the policy, and those are the figures at the 31st December, when they last participated. Then I have made a calculation of the amount remaining in force at the subsequent five years. That is five years from the last in each case which I have here estimated.

Q.—That is for the distribution you are about approaching? A.—Yes.

Q.—Then you make a deduction in respect of lapses? A.—No, these deductions are the amounts which we deduct from profits in order to comply with the new reserve law. We made a certain deduction from the profits in order to change our reserves to the $3\frac{1}{2}$ per cent. basis.

Q.—That was in anticipation of the Government requirement? A.—Yes.

Q.—And was that a deduction which you were proposing to make out of the sum which was available or was divided at the last division? A.—No, but we would need to take that into account to find out what we would be able to divide at the next division if we made the same deductions. What we did was to distribute the deduction from

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the profits over a period of 15 years, the 15 years required by law; when we decided how we would comply with this law we formed the plan for making the deduction from the profits of three quinquennial divisions in order to just meet the requirements of the law.

Q.—That is you were approximately going to raise your reserves to the Government standard in three stages? A.—In three stages.

Q.—At three quinquennial divisions? A.—That was the original intention.

Q.—And the next figures here, estimated loading and estimated value, how do you arrive at those? A.—I have taken different percentages; that out of that number there would be 20 per cent. lapse before the next participation and 80 per cent. would be in force. Out of these others issued a year later there would be 85 and so on. I have used different percentages according to the durations, the number of years they had.

Q.—Is that a computation of what will lapse before 1901 and 1906? A.—Of those that would lapse in 1901 to 1906.

Q.—That is it is a proportion that you calculate of those which remain in force at the period you are now approaching to share in the distribution? A.—Yes, on that basis I get the approximate value when these same policies will next participate. That is in the division approaching.

Q.—Adopting the same figures for the loading and these estimates that you adopted at the last division? A.—Yes, and making allowance for the increased values of the policies at the present division.

Q.—The increased value by reason of the greater reserves? A.—Yes.

Q.—Then the deductions here are the same in principle as the deductions shown in previous years? A.—Exactly.

Q.—Then the approximate profit at the next division? A.—Yes. This gives the ordinary profit, that would be the profit in proportion to the loading. And then the interest profit, that is the profit distributed in proportion to the value of the policies, the reserves, and those are the deductions, the same figures, and that would be the total profit, and these sums would be due from one to five years hence, according to the year when they are allotted. So I have discounted these back to 31st December, and that gives me the approximate total sum.

Q.—Now this is not a sum on these two pages which works to a balance? A.—No.

Q.—And the foundation of the whole computation is the last distribution? A.—The present distribution.

Q.—No, the foundation of your sum arriving at the present distribution is the last preceding distribution? A.—I don't just quite understand you. The policies that participated in these various divisions—but the basis of distribution actually adopted at the 31st December, 1905.

Q.—How did you arrive at that basis? A.—From these figures. We try, as Mr. Macaulay has explained, to at least maintain the rate of previous years.

Q.—Then the foundation is the last distribution; you are aiming, if possible, at maintaining that rate of distribution? A.—Or doing a little better if possible. We actually did do a little better last division because we increased the proportion of interest profit.

Q.—And in order to arrive at that you see, whether or not, approximately doing what you did five years ago or a little better, you will be able to do it and still leave as much of the net surplus still on hand as you think you ought to maintain? A.—Yes.

Q.—Still I am without information as to how you arrive at that. How do you know what you ought to reserve? A.—We have to take into account our reserve dividend policies as well. We furnished an exact copy of all this work to the Commission.

Q.—I know you did? A.—Showing that we should have had in hand \$1,273,000 for reserved dividend policies, and there is a balance of surplus of \$462,000, of which this sum I have just spoken of, \$388,000, is the amount which should be reserved in order to meet the 5 year distribution policies profits on the basis that we actually adopted 31st December, 1905.

Q.—How much of that is reserved for the deferred dividend policies? A.—\$1,273,000 of a total surplus.

Q.—That is reserved for those policies? A.—Yes.

Q.—And the distribution among those who share every five years is? A.—\$388,922.

Q.—Then I think I understand how you have done that. You do not in any way, so far as I can now understand you, do the sum which the by-law sets you, that is you do not do it on

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paper. A.—Mr. Macaulay can answer that better than I can.

MR. MACAULAY, recalled:

A.—I think we do, Mr. Shepley, it says "such portion as may be distributed." Well, we take all these things into account, and we find out—we do not begin at the amount definitely that is to be distributed, but we take that as a general thing, and we find out in detail just how much that will allow us to give for the different kinds of profit and come to about that sum. Then we start again from the basis thus found and work back. We think that is a literal, absolute compliance with the by-law.

Q.—Then with respect to the sum so arrived at you take this other statement, which will be Exhibit 630, and you take 5 per cent. of the sum so found as shown in that statement, you attribute that to the shareholders and 95 per cent. you attribute to the policyholders? A.—Yes.

Q.—Well, then, having done that, there are some of the policyholders to whom you pay cash; I say pay cash as a generic term, covering everything that is actually done with the money that year? A.—Yes.

Q.—Some you pay cash and some you add to their policies, but that is all cash? A.—Yes.

Q.—Then there is a large sum of money still left that is not distributed in that year? A.—Yes.

Q.—What do you do with that? A.—Part of that would belong to the deferred profit policyholders and part would be general surplus.

Q.—What do you do with it? A.—Let it alone.

Q.—What do you do with it on the books? A.—Do nothing with it.

Q.—Do you distribute it on your books so that each policyholder has it put to his credit? A.—No, we look upon that as a margin of safety, unallotted.

Q.—It is not a margin of safety, it is money you have distributed. A.—Are you referring to part of that fund there?

Q.—Certainly? A.—Oh, I thought you were referring to what was over and above that fund.

Q.—Oh no, I say a portion of the sum you have finally arrived at you have to pay that year? A.—Yes.

Q.—And another portion you do not pay that year but it is reserved for those policies that will fall in during

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the next five years? A.—Are you referring to the allowance for the—this \$154,000 for example.

Q.—Yes? A.—That is divided exclusively and entirely in the form of their cash allowance or bonus. By bonus I mean used to purchase bonus addition to the sums assured. There is no part that is not used of that. It is all used.

Q.—There may be a policy whose fifth year is not that year? A.—This includes only those whose fifth year is in that year.

Q.—Then I have misunderstood Mr. Wood's explanation? A.—Here is the amount that is reserved for policies whose fifth year is not in that year. \$388,000 for those in 1906.

Q.—No, this is 1905. Apparently I have misunderstood it? A.—I will let Mr. Wood come back again.

MR. WOOD recalled: Q.—The impression I got was that this \$388,922 was the sum out of the profits of the year 1905 which was distributed among all the policyholders entitled to share in it? A.—Not only all those that would receive profits in the year 1906 but also provision for those that would receive profits in the years '07, '8, '9 and '10.

Q.—That is what I thought. Then it is not immediately distributable in cash? A.—No, only a portion of it. These three items I have just marked, \$16,000, \$31,000 and \$45,000 is actually distributed in cash this year, '06.

Q.—And the rest you are holding to give it to them in the future? A.—In order that we may give them the same proportion.

MR. LANGMUIR: The whole of the \$154,000 is distributed?

MR. SHEPLEY: Yes, but the whole of the \$388,000 is not distributed. Then I was right, whether I made myself understood by Mr. Macaulay or not. There is a large proportion of this which is not immediately distributable in cash because the time for it to be paid to the particular policyholder has not yet arrived? A. Has not yet arrived.

MR. MACALUAY: But it is not included in the amount corresponding to the \$154,000.

Q.—I thought the \$154,000 was precisely the analagous sum to the \$388,000.

MR. WOOD: No, that is with regard to the policies participating in that year. If I had the voucher for

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the 31st December last year I could show you that it corresponded exactly with this.

MR. MACAULAY re-called: Q.—Then speaking about the \$388,000 for 1905? A.—If it is about the details of this I would prefer that you would ask Mr. Wood.

Q.—It is altogether indifferent to me? A.—Mr. Wood knows these details better than I do.

MR. WOOD re-called: Q.—It is just in order that we may get the information. Then the \$388,000, Mr. Wood, what is done with that portion of it which is not from year to year actually distributed in cash? A.—It remains in the surplus.

Q.—What is done with it in the books? A.—It is not put through the books.

Q.—It is not put through the books in any way? A.—No.

Q.—It is not distributed upon the books, so that it stands to the credit of the different policyholders entitled to it? A.—No.

Q.—Would that be a feasible thing to do? A.—That is very questionable.

Q.—You know it is done in the case of some companies? A.—Yes. Mr. Macaulay has very strong ideas regarding that question.

MR. MACAULAY re-called: It would be feasible; but in my judgment unwise. It would be introducing a sort of annual distribution plan which is entirely foreign to this country and entirely foreign to the British idea of life insurance.

Q.—Let us get the thing we are talking about defined first. I am not only speaking of the quinquennial policies but that larger sum of \$1,300,000 odd which is taken out for the deferred dividend policies. Now, with regard to those two funds, the question is this, is it feasible to apportion those to the various policies, so that a record of it may appear upon your books? A.—It is feasible.

Q.—And it is done by some companies, is it not? A.—It was done, I think, by one American company, I am not sure of more, before the recent legislation in the State of New York. Hereafter it will be done by most of the American companies under that legislation.

Q.—Do you know of any company in Canada that is doing it? A.—No, I am almost certain there are none.

Q.—We have been told of one that is adopting it. We have been told by

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the actuary of the particular company that he is so impressed with the necessity for that, that he is adopting that in his practice. A.—In regard to deferred, would you like my views on that question?

Q.—I do not draw distinctions for the present purpose between the distribution among deferred dividend policy holders and quinquennial policy holders. What I wish to get at is this, you have told me it is feasible to apportion the profit you chose to declare last year among all the policy holders entitled to it. A.—Yes.

Q.—Not only to those to whom you paid cash last year or this year for last year, but among those who are entitled to it at future distributions. A.—It is feasible.

Q.—Does it offer any advantages to your mind? We will have the advantages first, if there are any, and if you do not hold up any hand on that side of the question, then I will call for a show of hands on the other side. A.—By apportionment would you mean an apportionment by which the policy holder himself would be notified of the amount?

Q.—I was going to make that a separate question. First I wish to know about your books and your own records and the desirability from your own standpoint. Then I will ask you in a separate division, if you will let me, about the advisability of notifying the policyholders. A.—I think it is almost a mistake to mix the two together for a moment, that is the deferred profit plan and the other.

Q.—Separate them if they occupy different planes in your mind. A.—They do occupy decidedly different planes in my mind. With regard to deferred dividend policies, while I have said that I consider it in the highest degree unwise to prohibit as they have done in New York, such a plan of insurance, I do think that greater publicity and a certain amount of accounting for profits is desirable.

Q.—Yearly? A.—Well, my mind has gone rather in the direction of every three years.

Q.—If it is nice every three years, it is three times as nice every year. A.—So far as that is concerned, if the form of accounting were of the kind we would consider the right and desirable kind we would have no objection to a yearly accounting. There is only one weak point in this whole

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deferred profit system, and that is that in some cases estimates are held out by which people are induced to insure and those estimates are not fulfilled. There is that one weak point in it and only that weak point. As I have already said, that weak point does not apply in our case. I am speaking now from the standpoint of the business as a whole. I think it is desirable that some plan should be adopted by which, for example, if I might make a remark without being understood to be in the least degree unkindly, I am not mentioning any names, a young company deserves the sympathy of those who know the struggles it has to go through, but while it deserves our sympathy we must also in fairness admit that in most cases it cannot give as good returns to its policy holders as a well established company, because the expenses in connection with the establishment of a young company are heavy. In the case of some old companies also the results have not been equal to the estimates, but whether it be the case of young or old companies, something ought to be done by which the public can judge whether the estimates that they are holding out and on the strength of which they are obtaining business are justifiable or not.

Q.—You are putting the case beautifully, Mr. Macaulay. A.—Those are my views exactly.

Q.—Then what would you say of a plan by which every deferred dividend policy holder—and I understand you want to confine it to that for the present— A.—For the present.

Q.—Every deferred dividend policy holder is told every year, this year we put so much to the credit of your policy, out of the profits of this year. A.—The objection to that is simply that if you do that a company will be compelled by the force of competition to adhere to the old system of dividing profits which still prevails in regard to the annual and quinquennial system of dividing profits. That old system is based upon the theory that life assurance expenses are spread evenly over the whole duration of the policies and bear with equal heaviness on every premium. That we all know is not so.

Q.—Are you not getting a little away from the question? A.—I think not.

Q.—I do not want to stop you finally, but let me remind you what it is we are discussing. At the end

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of 1905 you had definitely decided that upon that year's operations you were able to set apart a particular sum to distribute in profits? A.—Yes.

Q.—Now then, you do not mean to say that you are reserving, by the answer you are giving me now, the right in the management afterwards to disturb the dividend they have declared for 1905? A.—That is not my point at all. My point is this that the old system of dividing profits which still prevails is an erroneous one. It provides, for example, that a company shall pay profits at the end of the first year when everybody knows that there are no profits earned. We all know that a life policy does not get its full reserve, does not make good its full reserve, until it is about four years in force, and yet at the same time custom, competition, which is based upon the old system of dividing profits, compels the company to give profits in those early years that have not been earned. Now in reality companies earn less profits than are paid according to the old system in the earlier years and more profits in the later years. Now, the way in which we set aside profits upon our deferred profit policies is by treating them as though they were a separate company. Our deferred profit policies, according to the returns which have been furnished to the Commission—to the deferred profit branch we credit every premium received by the company in its entire history upon every deferred profit policy. We debit every death claim that has come in on the deferred profit policy. We credit the exact proportion of the interest or profits on investments which those profits have earned year by year; we charge up the exact amount paid out in surrender values in deferred profit policies and we treat that branch exactly as if it was a company by itself. And the amount that is to the credit of any policyholder for profit purposes consists of the accumulations of that policy improved at interest on that basis; his share in other words of the fund as worked out in great detail in the returns already furnished. Now that does not fall upon the company to provide any profits at all in the first four years,

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because no profits have been earned. It is recognizing the actual facts of the business and allotting the profits as they are earned, not as competition would require, but in an equitable, proper way as they are earned. If we were compelled year by year to notify the man himself of the amount that would be set to his credit we would have to do one or other of two things. If we notified him of the amount, in the first few years the amount would be too small, he would be dissatisfied because he has got his ideas raised by the old wrong basis of distribution which prevails.

Q.—You are getting on dangerous ground, I am afraid. A.—I fully understand that, Mr. Shepley. I have no objection whatever to letting a man know how much is going to his credit, except that in practice that would prevent the company from bringing about the improvement in distribution of profits which is practised by a number of the best American companies and by ourselves.

Q.—Why shouldn't you say to A., B. & C. in the first, second and third years, during these years it is true we have made profits, but your policy has not made any profits and there are no profits for you. And to D., E. & F. in this year we have made profits and so much has been apportioned to your policy. A.—You mean assuming that D., E. and F. are older policies?

Q.—Yes. A.—Competition would not allow it. The company that tried to do that could not do the business.

Q.—But that is the truth? A.—Exactly, and what I say is—

Q.—You do not want us to understand that your company, or any respectable company will want the policyholder to believe in a state of things which does not exist? A.—What I want to say is this, that every company on this continent, without any exception, feels bound to stick by the old system because none of them feel strong enough to break away, although they know it is wrong.

Q.—The old system being what? A.—The system of distributing profits on the assumption that expenses bear evenly on every year.

Q.—You are using that old system? A.—On our quinquennial profits only.

Q.—I thought we were talking of deferred dividends? A.—So we are.

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We are not doing it for our deferred profits.

Q.—You are doing the real thing on your deferred dividend policies? A.—Yes.

Q.—And do you mean us to understand that your deferred dividend policyholders suppose that they are getting profits that they are not getting? A.—No, I don't mean anything of the kind.

Q.—Then what does it come to? A.—Our deferred profit policyholders are led to expect that at the end of the 20 years they will get so much and they are getting it and they will get it, but they do not bother their heads about whether they are getting it in the meantime or not. They have nothing to do with the company's accounts and the working of the company's book-keeping.

MR. KENT: I suppose it would be a little awkward to explain to the policyholders that the policy did not earn any profit the first year because perhaps, the agents got the whole of the first premium? A.—No agent gets the whole of the first premium in our company.

Q.—In some companies such is the case? A.—The Sun Life is an exception. We cannot get away from the fact that if we are to do business we must do business with a heavy expense upon the first year. Take the case of a young company. Perhaps we will see the merits of the question better if we take the case of an absolutely young company, just starting business, than if we take the case of an old company. Now, that young company may be doing business on exactly as economical and as proper lines as an old company and be in a position, we will say, to do every bit as well as the older company. But at the end of four years or for more than that, for the first four years of every policy, it would not earn a dollar of surplus upon those policies. Now, if it divided its profits or allotted its profits on the deferred profit plan on a proper basis such as is admitted by American actuaries, the actuaries of this continent, the leading men, then it would not have to set aside and pay profits it had not earned, but if it were to allot those on the annual or quinquennial system or what is practically almost the same thing, if it were compelled to declare those year by year, it would be impossible for it to break away from the

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old system and to adopt the improvements. The point is this, in the case of a young company it has no old profits, profits from old policies to use in this unfair distribution and would not be able to give anything, but an old company has its profits, but if it is to give profits to the young policyholders it can only do so by taking them away from the old policyholders, which is unfair. Now, this is an improvement by which an absolutely equitable distribution of profits can be made, but if you are going to require that it shall be abolished so that the policyholder himself—

MR. SHEPLEY: Will know that it is equitable? A.—It will be impossible to break away. I have my own ideas of the kind of accounting that would be perfectly satisfactory and would protect the public, but I do not agree with the idea that the policyholder as an individual should be notified.

Q.—Let me appear to digress for a moment. When you are making up your profits on the deferred dividend policies do you prefer in the individual distribution the old policies to the younger policies? A.—On our deferred profit policies we give every policy exactly what it earns.

Q.—Is that intended to be an affirmative answer? You prefer the old policies to the new policies? A.—We don't prefer them, we give the old policyholders what is their right.

Q.—That is you give them more out of a fixed and specified sum than you give to the new policies? A.—Yes, because they have earned more.

Q.—Then do you give on a sort of sliding scale—I do not think that expression is accurate but it will convey my idea—you give, say from nothing in the first two or three years to the deferred dividend policyholder up to his full proportion by a sort of sliding scale; as a policy gets older it always gets a little more? A.—For the first three or four years of every policy there would be no profits at all on an equitable basis. All the profits would be earned after that.

Q.—And when you come to make a division and to give a deferred dividend policyholder his share? A.—We give him nothing for those years and give him the full profits he has earned thereafter, but the amount earned in later years far more than makes up.

Q.—I understand that. Then if you are calculating what you are going to pay him at the end of the twenty years when his policy has run

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its full course, will you give him more than you would a policyholder whose policy had been in force for say 15 years? A.—Certainly.

Q.—And the 15 years more than the man who had been in force for 10? A.—Do you mean a 10 year deferred profit? We do not pay them?

Q.—But you have got to find out what you are going to pay these men?

A.—We have explained that at great length in the schedules already furnished, in detail.

Q.—I know, but that detail is so detailed that I want just to get the leading principles out of it and get them upon the record. A.—Then I will ask Mr. Wood, who prepared these figures, to explain them. I can do it, but Mr. Wood can do it better still.

MR. WOOD, recalled:

Q.—You understand, Mr. Wood, what it is I am asking? A man's deferred dividend policy falls due, and you have to pay him profits; you have to adjust those profits with reference to a lot of policies which have not yet fallen in. A.—Yes.

Q.—Of varying ages from one to nineteen years. What do you do by way of that adjustment? A.—We have prepared tables which we call standard asset shares for every plan of assurance and for the various ages. That is based approximately upon the company's actual experience. We take for each plan and each age the assumption that 10,000 persons insure at that age. And we follow those 10,000 persons right straight throughout to the end of 20 years on the basis of mortality and lapse ratios.

Q.—Actual mortality? And actual lapse ratios? A.—Approximating closely to our own actual experience.

Q.—But taken from tables? A.—Yes. The lapse ratio is worked up on our own experience and the mortality is approximating closely to our own experience. It is based upon the H. M. Table, but adjusted for the benefits of selection. Each one of those 10,000 persons pays a premium of \$33.25 a year. Then in brief we follow out that 10,000 throughout the 20 years, ascertain what they have contributed each year to the company and what is paid out on their behalf in the way of expense, claims, surrender values, etc.

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Q.—With regard to the expense, is that actual? A.—Yes, it is divided on the assumption that the expenses of new business are ten times the expenses of renewals. That is the generally accepted basis. In that way we ascertain what fund the company will have in hand at the end of each year from this particular group of policies, and dividing that by the number of policyholders still on the books in that group we get the average share of each policyholder in that fund.

Q.—The average share? A.—Yes, the average share of each policyholder in that fund. That is formed from the actual accumulations of such policies. Then we have our reserved dividend business all tabulated according to plan, year of issue and age at entry. Multiplying the amounts in force upon our books by this average value according to the duration of the policies, we find out what total amount the company should have on hand on this basis. Then we compare that total amount with the actual funds as ascertained from the actual income and expenditure of the company under reserved dividend policies. If the actual fund exceeds the fund according to the standard assets share by a certain percentage, then we would increase the amount to be paid to each policyholder at the end of his 10, 15 or 20 years by the percentage which that sum bears to the total fund of the company. If less, it would be decreased.

Q.—Then do you in the individual payments you finally make differentiate between the earning capacity of each policy in each different year? A.—Yes, that adjusts itself automatically.

MR. MACAULAY (recalled): I would like just to add that I think we have got the finest system—I believe we have the most equitable system. I don't say we alone have it, other companies have it, but this is the most equitable system.

Q.—What is your rooted objection to telling these policyholders every year just what you are doing with them? A.—Because in the first few years the surplus would be so small that they would be dissatisfied, and, as a matter of fact, the company would, by the force of competition, be compelled to go back to the old

system which it is desirable to abandon.

Q.—Supposing all companies had to do the same thing? A.—Yes, but all companies won't. If they had to, it would be perpetuating an injustice in all companies to the old policyholders.

Q.—Oh no, I am assuming that all companies are compelled to do what the fact is, divide the profits according to the equitable rule upon which you are dividing them. A.—If all companies were compelled to do it, it would be all right, but I am perfectly sure that it is practically impossible. There would be a lot of companies that would not do it, and I don't think any Act would get down to the point of saying exactly in what manner a company should divide profits, and, therefore, it is not feasible.

JUDGE MACTAVISH: The honest companies would be at a disadvantage? A.—The companies that wanted to adopt the improvement would be at a disadvantage and those who were willing to take from the profits of the old policyholders to pay for new business would be at an advantage.

MR. SHEPLEY: I have not got you to see the possibility of compelling all companies to do what you yourself say is the excellent way. A.—If all companies could be compelled to do that, but I don't think that is feasible. If all companies were doing it, we would have no objection so far as we are concerned. We have no objection to letting any person know, except that one point that if we adhere to this improved system we would be misunderstood.

Q.—Then we have got this far, that in the case of these deferred dividend policies the scheme of keeping an individual account is feasible and that it is quite consistent but for the fact that competition with other companies, it is quite consistent with the equitable method you have adopted. A.—Yes. Excuse me, Mr. Shepley. I would say that this plan of keeping a separate account for every policy in the way we do is all right, and the only objection is to making the return public to the policy holders.

Q.—It would be well enough to notify the policy holder of the equitable thing you are doing with him, if all other companies were doing the same

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thing. A.—Precisely and not otherwise.

Q.—Then let us come to the other class of policies. A.—But there is a lot more to be said about the deferred profit and how that should be reached; about how the end you wish could be attained without giving it to the individual policy holders.

Q.—Then let us hear that. A.—My cure for the evils in this business is just greater publicity. Not an annual distribution but greater publicity. The English returns are inferior to ours in that they do not call for as much detail in regard to assets, but they are better than ours in that they do call for a lot of information regarding the profits that a company pays and so on, which our returns hitherto have been silent on. I think we should take a leaf out of the English book and that our returns should ask a great many more questions as to what profits the company is paying and what provision it is making. Now what I would suggest would be this; that every company should be required to give a detailed statement of how it divides its profits upon deferred profit policies. In the next place I would ask for a statement showing the estimates which it has in use for policies on the straight life, 20 payment life, and 20 year endowment plans. Those three plans would be sufficient, for ages 25, 35, 45 and 55. Those ages would be sufficient, showing exactly what estimates they are holding out. It is not so bad now as it was, but a few years ago some of the estimates of some of the companies were outrageously high.

Q.—Some of their results were outrageously low as compared with their estimates at all events. A.—Well, if companies were required just to state what the estimates were at these ages that they are holding out for the end of the 20 year periods, any company would become ashamed to hold out extravagant estimates, estimates that were higher than those held out by conservative and prosperous companies, and that in itself would be a good effect. Incidentally, if I may digress in regard to this question of estimates. In New York they have passed a law prohibiting the use of what they call misleading estimates. That is how the law reads. But as an actual fact the Superintendent of Insurance in New York has interpreted that law—wrongly I think, but still he has interpreted it—as prohibiting estimates altogether and they don't allow esti-

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mates of any kind to be used by any of the life insurance companies.

MR. KENT: Do you recognize the impossibility for any company but one to put out an estimate that will not be shown to be incorrect afterwards? The estimates we have found were all incorrect, possibly with the exception of your company. A.—I don't think the present estimates are so very far astray, Mr. Kent. But at any rate there is one point that has to be realized. You cannot stop making estimates. I do not care if you have the strongest worded Act it is possible to frame, estimates will be made. The only difference is that if you prohibit the companies making the estimates, the agents will make the estimates, and agents will not be half as conservative as the companies and the latter state will be a great deal worse than the former.

Q.—That is, an insurance agent cannot be kept to the truth? A.—That may be true of some companies' agents, but we have a pretty good lot of agents, we do not have many that are not truthful. If we find that they are not we do not keep them.

Q.—I am generally excepting your company. A.—Thank you, Mr. Kent. I would like to impress this; when an agent goes to insure a man the man is likely to ask him, how much am I going to get at the end of 20 years, and no law can prevent or stop that agent from answering that question. There is going to be an estimate made as sure as we are standing here, and if you say the company shall not make any estimates then that means that agents will make estimates and there will be some of them very wide, and there will be a competition between the agent of one company, without authorization making an estimate on his own hook, and another one on his.

MR. SHEPLEY: The question of estimates is, perhaps, a separate question, and will not be overlooked, but I wish we could get on with the main discussion. You were telling me the remedy, instead of notifying policyholders of what profits were being put to their credit that you would have full publicity? A.—Yes, that second item of publicity. I referred to a statement of the estimates in use by the company for those plans and ages. Then the third point: a statement showing the amount which the company should have on hand for every

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year of duration of the policies in order to fulfil its estimates, and side by side with that the sums which it actually has on hand to the credit of such policies, even though those sums be not actually allotted to the policyholders. I think I have got this a little bit out of order. I would require every company to make a statement showing how much money it ought to have on hand for every year of duration of policy issued in every year, and the actual amount it does have on hand by groups, policies grouped by years of issue; not to the individual policy but to policies grouped by the years of issue; and side by side with the amount it ought to have on hand to carry out its estimates the amount it really does have on hand. It can figure them on our plan or any plan it chooses. Every company should be required to prove its surplus to its policyholders, at least to the extent of giving these details. I, however, would exempt the first three years of every policy from this regulation, because no profits could be earned in those years and it is no use drawing attention to that. Then I would go further, and I would require every company to furnish a statement of all the deferred profit policies in force on its books, arranged by years of issue, and of the premiums received upon the same, from the inception of each policy, and of the funds and surplus to the credit of each of the groups on the company's books on the basis I have already mentioned. These statements should, I think, be furnished by each company within one year after the passing of the Act and at least once in three years thereafter. If the Commissioners should think it should be done yearly, I have no objection. The only reason that I have said three years was that it would be rather a bulky addition to the Blue Book and perhaps once in three years would be enough. The British rules call for the company to furnish the returns once in five years. Whatever the Commissioners would recommend, from once in three years to every year would be entirely satisfactory to us. I think this plan by which the companies would be required to show the estimates they are using, to show what amount they ought to have on hand to carry out those estimates, arranged for policies according to years of issue and the actual amounts they do have on hand, and also giving the total premiums received on each group

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and the amounts in hand, so that persons could compare the two and see if they were about right, would accomplish all that is required, and would be far better than legislation requiring compulsory accounting to the policyholders, which would have very objectionable results.

Q.—Wouldn't you add to that, if in the returns actual examples were given of what was paid by way of profits? A.—Thank you, Mr. Shepley, that was a point I was overlooking. I would also require that every company should furnish actual examples of the profits it pays from time to time, and I don't know that I would not go so far as to say how do they compare with the estimates at present—not the old estimates because they are past and gone and there is no use in raking them up—but the estimates at present in use. My idea would be to give sufficient publicity to make sure that the companies cannot deceive the public and obtain business under false pretences, but that is all.

Q.—Then let us come to the quinquennial policies. Do you differentiate them at all in what we have been saying with regard to the possibility of apportioning to the individual policyholders and the desirability of notifying them and the advantages of publicity? A.—The profits of the quinquennial policyholders must, from the force of competition, continue to be divided on the old system. We would like to break away from it, but it is impossible. We have to recognize the facts as they are. Therefore anything that would accentuate the evils of that system by requiring an amount to be set aside in the earlier years when profits would not be earned, would be objectionable. The quinquennial system is almost universal in Great Britain and in Canada. Anything further than that, in the nature of annual distribution, is not customary in Canada. We ourselves have given the option to policyholders of having annual distribution policies if they choose. We have about 50 annual distribution policies in force on our books and not more than one or two of those are in Canada.

Q.—I was not speaking for the moment of actual distribution; I was speaking of keeping an individual account? A.—I would look upon any individual account by which the pol-

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icyholder would be notified as practically the same thing as an annual distribution. If the policyholder is going to be notified it is almost the same thing.

Q.—Although you do it in groups of those who enter at a certain age and so on, you do in fact make that apportionment? A.—Yes.

Q.—But in groups, not to the individual? A.—I have no objection at all to anything that just means groups. We draw the line at anything that means to the individual policyholder.

Q.—As a matter of fact do you ever retrace your steps having once apportioned to a group or do you maintain that and divide it when the time comes? A.—We have never done so yet.

Q.—You have never retraced your steps yet? A.—No.

Q.—Then it is not open to the objection that you subsequently may want to adjust by reason of future losses or anything of that sort? A.—I am not prepared to say that that point should not be taken into account, but it has not weighed with us.

Q.—It does not weigh with you now? A.—Not very heavily. I would be prepared to waive that point.

Q.—Then is all you have said with regard to the advantages of publicity in the case of the other policies applicable to this as well? A.—I think so. The united companies are likely to have a meeting and discuss the thing and I would reserve my right after discussing with them to alter the recommendations I am giving, a little bit. I am giving my individual views. Publicity is, I think, the cure for these things.

Q.—What is the objection to annual distribution? A.—Annual distribution in the first place requires that a company shall begin to divide profits in the early years; competition requires under the annual distribution system that a company shall begin to divide profits in the early years when it has not earned them and that is an evil.

Q.—That is because you are adhering by force of competition to a faulty, a wrong system? A.—Precisely, and one that it is simply impossible to break away from.

Q.—Don't say impossible. All things are possible. If you have concerted action upon the subject you can deal with it apart altogether from legislation? A.—In New York this

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question came up at the actuarial meeting last week and the question was raised whether the companies could agree to even drop the profits for the first year, and a number of the companies' representatives got up and said, We will not do it, we are going to stick to the old system, and that knocked the whole thing endways at once.

Q.—When you say it is impossible, you mean that there are some wrong headed men who will not do it? A.—They may think they are right, but according to our views they are wrong-headed.

Q.—The ideal system of distributing profits, paying respect to the fact that initial cost is so great that there can be no profits in the earlier years, that is what you would advocate if you could have it brought about? A.—I would.

Q.—And if that were brought about, perhaps you would not have so many or such great objections to annual distribution? A.—Annual distribution is objectionable for other reasons. It is an entirely American idea; it is utterly opposed to British and Canadian ideas. If it is carried out at all to its logical conclusion it would result in fluctuations in the rate which is undesirable. I see no reason whatever for annual distribution and I see much against it. There is no demand for it and I see no reason in the world why annual distribution should be contemplated at all.

Q.—This is the only walk in life in which profits are not distributed annually?

MR. LANGMUIR: What about distributing an annual amount and at the end of the quinquennial period giving the full amount? A.—That would come to about the same thing. If you introduced the system at all we have got to get down to the American system, and the American companies until this last legislation were getting away from it. It is not looked upon with favor apart from this recent legislation in New York. No person, or very few people, would be found to advocate the annual distribution system.

MR. SHEPLEY: Why should not shareholders wait for five years? A.—They do, they only get their profits as the amounts are divided.

Q.—They get their 15 per cent. every year? A.—Yes, but that is from the profits as it goes along. They

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only get their 5 per cent. when that is divided.

Q.—Why treat shareholders differently from policyholders? A.—We don't. We are treating them exactly on the same system.

Q.—No, you are giving the shareholders dividends every year. A.—And we give certain policyholders, if you wish to put them on the same basis, the right to divide their profits instead of taking it in one sum to spread it over the next five years. The first five years spread over from the 5th to the 10th. That is exactly the way we do with shareholders.

Q.—You have never suggested to the shareholders that they should waive their dividends for five years and then take 75 per cent. instead of 15? A.—No, but that is earned partly from interest. We are getting the interest as it goes along.

Q.—Interest upon what? A.—Interest upon the capital funds.

Q.—That is the old story, we won't go into that again; that I have discussed with you as much as I think is useful. Perhaps it would be convenient to adjourn before taking up the next subject. I am through with this particular subject.

(Memorandum on organization and administration filed as Exhibit 631.)
(Adjourned to 2 o'clock.)

AFTERNOON SESSION.

(T. B. MACAULAY, continued.)
By MR. SHEPLEY:

Q.—Then, Mr. Macaulay, you desire to add something to what you have said this morning on the subject of publicity in the returns. What is that? A.—I think that in the Government blue books, in the table showing the assets, liabilities and surplus of the different companies, that not merely should the surplus over liability to policyholders be shown, but also the surplus over all liabilities to policyholders and capital stock. At present that is not shown, but the surplus as given includes a divisible surplus and a capital stock. Now, that is all right from the standpoint of the strong company, but it is not right in the way of showing what surplus the company has available for distribution, and I would think that it was only right that there should be another column added showing for each company the amount available

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for distribution. I would like to add also that in regard to this question as to whether the amount allotted to a group of policyholders in the way you were speaking of this morning should be final and irrevocable. I would like to reserve judgment on that point until after the United Companies have had a gathering. I would prefer to reserve judgment on that point.

Q.—Then Mr. Macaulay, I suppose that you have the same trouble in connection with initial expense of insurance that other companies have? A.—I suppose so.

Q.—What is the reason the first year insurance cost so much, or what are the reasons? First give me the uncontrollable reasons and then the controllable reasons. A.—The uncontrollable reason is that competition is keen, and companies require to pay heavily if they are to get the business.

Q.—It is the competition which you experienced in making great efforts after new business, A.—Well, efforts, great or small.

Q.—There is no doubt keen competition? A.—There is.

Q.—And what is the result in your experience in your company, what is the result upon agents' commissions? A.—The result is that commissions have gradually risen through a long term of years.

Q.—Take the last ten years, what were the initial commissions ten years ago, and what are they now in your company? A.—As compared with ten years ago, I do not think we are paying as much to-day as we were ten years ago, of initial commissions. There has been a tendency downwards in the last ten years.

Q.—Then how far back would you go? A.—I would think that the commissions rather reached the maximum at about ten or twelve years ago. At that time there was a tendency to put all expenses of every kind on to first year, and to give very little in the way of renewals. Then afterwards there was a tendency to cut down the first year's commission somewhat and to switch a little more off on to the second, and third, and fourth, and so on.

Q.—And renewals? A.—No long renewals, but a short period of renewals.

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Q.—What are you paying now? A.—Formerly we used to pay from 50 per cent. about, sometimes more, on first year's commission, but since the pressure from the American companies, on account of the legislation in New York, has lessened somewhat, we have been able to remodel all our contracts, I think almost for the whole Dominion, on lower lines within the last few months.

Q.—That sounds very satisfactory. What do you pay now? A.—Our regular rate is forty per cent. for the first year, scaling down according to the plan of insurance.

Q.—To what? A.—Down to twenty-five per cent.

Q.—According to the plan? A.—Yes, and twenty-five per cent. scaling down to ten on the second year, and five per cent. for eight years—up to the eighth year; that makes six years; and thereafter nothing.

Q.—That is what your contracts are modelled on now? A.—Yes.

Q.—And that I daresay you will find somewhat of a relief? A.—Yes.

Q.—What provision do you make in the premium itself for meeting this cost? A.—In the premium itself there are several sources from which expenses should be met. One of the sources is the loading contained in the premiums.

Q.—And you have of course a graduated scale of loading on the different plans of insurance? A.—Yes.

Q.—What other source is there? A.—All profit of any kind is available for expense. There is no one source of profit that is ear marked for expenses. The theory that any one source of profit is the only one from which which expenses should be met is absolutely incorrect in my judgment and in the judgment of nearly all English actuaries for example.

Q.—If the great body of your shareholders have been contributing to the revenues of your company for a great many years, and if their funds have produced these profits in the bulk, would you think it proper to take those profits for the purpose of paying the cost of the new insurance? A.—I think that under a proper system of assessing expenses every group of policy holders will pay for itself.

Q.—Then you would not approve of taking, in the long run, taking the profits earned by the policy holders to pay the expenses incident on bringing in the new policies? A.—I do not. That is what I explained this morning, that by reason of our system

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of dividing profits under the deferred profit system, we manage absolutely that that is not done, but in regard to the old system, it is impossible to break away from it.

Q.—Where you cannot break away from the faulty system that objectionable feature still exists? A.—Exactly.

Q.—And to the extent it does exist it is objectionable, there is no doubt about that? A.—Yes.

Q.—It is wrong in principle? A.—It is wrong in principle to take what belongs to one person and use it for another, but you must clearly show first of all what particular source of profit is being discussed.

Q.—You have given to us in four parts—and I am going to deal with these four—a statement showing how you load your premiums in respect of these items of expense. I am going to leave out, with your permission, so as not to encumber the record, the Sun Tropical and Thrift Schedules altogether, and just take your northern rates, I will have this upon the record, indicating what it is. I will not have it all upon the record, because I will put the books in. These Northern rates in use during certain periods, each one dealing with different periods as you will remember— A.—Yes.

Q.—And as you have travelled down through your course you have used different rates of interest? A.—Yes.

Q.—Including the net profit? A.—Yes.

Q.—Gradually assimilating your interest to the Government requirements with respect to reserves? A.—Or changing our basis as the Government requirements were changed.

Q.—That is what I meant, assimilating your rates in the calculation of any of the premiums to the rates which the Government required you to use in computing your reserve? A.—Yes.

Q.—I will just take the one plan to show what it is, and then put in the books. Between 1891 and 1895 you used the H. M. Table of mortality $4\frac{1}{2}$ per cent. interest to calculate the net premium? A.—Yes.

Q.—On a whole life the rate was $32\frac{1}{2}$ for expenses (reads table). Those were the loadings you adopted during these various years? A.—Yes.

Q.—We can get the other loadings during the other years and the net premiums from these books? A.—Yes. (Exhibit 632.)

Q.—Then that brings me to a document which I want to discuss with you quite briefly. This is the profit

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and loss statement for 1905. You were aware, of course, of this form of profit and loss statement which was submitted to you with other documents to be filled up for a particular year? A.—Yes.

Q.—And I understand you have some criticism to pass upon the form, and I am quite content, of course, that you should give us all the light you can, show us in what respect you consider the form to be inappropriate? A.—A fundamental error in the form, according to my idea, is that it assumes that loadings are the sole source from which expenses should be made, with the exception of the small amount that is allowed to be charged against investments. I think that entire fundamental theory upon which the whole profit and loss account use by the Commission is framed is wrong. My views on that point are not mine alone, but I think are shared by many others.

Q.—That is a fundamental error in your view. In the first place, you observe that there is another source for meeting the first year's expenses given in the form, which you have not referred to; that is the gain in respect of mortality on policies issued during a particular year? A.—Yes. That however is only to the extent of the gain during that particular year on policies issued during that year on an average of six months, and according to my way of looking at the matter, all gains from favorable mortality, are an appropriate offset against the expenses.

Q.—Is what you have said with respect to that just as what you have said with respect to all sources of profit generally,—is that subject to the qualification that there will be a readjustment in time, so that each policy will bear its fair share? A.—I consider that the proper place to which all savings from mortality, not merely for these features of each policy, but all savings from mortality should go, as a credit against expenses, and my reason for that is this—

Q.—I would not quarrel with that, but you would not say it ought to go as an offset against initial expenses? A.—I would exactly.

Q.—And stay there? A.—Yes.

Q.—Or be readjusted? A.—No sir, stay there finally.

Q.—Now, upon what ground do you advance that view? A.—In the first place we have to face the question, how is it the company has any favorable mortality at all. Now there are

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two factors that bring about that favorable mortality. The first factor is that the company employs agents and canvasses for business and brings in a lot of new lives, and those new lives are the ones that have the favorable mortality, and this company gets this improvement in the mortality by the expenditure of money and only by the expenditure of money, by the employment of agents. The other factor is that the company selects with all possible care among these lives so as to eliminate all except the best, and that again is the expenditure of money. The favorable mortality is due solely to two factors, the company pushing for business and getting new lives in, and the company spending money through its medical department to make selections. The favorable mortality, therefore, is due solely and only to the expenditure of money by the company, and is a proper and fair offset against that expenditure of money.

Q.—Don't you think the policyholder who entered your company in, say 1895, is as much entitled to the benefit of that as the policyholder who entered in 1905, in the reduction of expenses? A.—No, I do not.

Q.—Why? A.—Because the policyholder who entered in 1895 is one of a group that is now having a normal mortality, or pretty nearly so. The benefit of selection to a very large extent has worn out in his case, and the benefit of selection is going to be chiefly upon the new lives, and in these newer ones the result is brought about by the company exclusively through expenditures in connection with new insurances.

Q.—I thought you were talking about the saving of mortality in the subsequent years? A.—But that is a saving in mortality. It occurs in the first year, but goes on more or less through the whole.

Q.—The saving in mortality through the subsequent years, it seems to me—I may be quite wrong about it, is the legitimate fund of the policyholder who has been in force all these years? A.—They are bought by expenditures in connection with first year premiums.

Q.—They were not bought by expenditures in connection with 1905. They were bought by expenditures in 1890 when they entered? A. Yes, but the one balances the other pretty much.

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Q.—You say it is just a question of roughly offsetting one against the other? A.—Yes, so far as I know I think there are very few, if any, companies that do not do that in actual practice. And a little profit in that connection is this: All profits almost without exception are distributed on that basis. Now, surely the rule must apply to the distribution of profits as well as to the assessment of expenses.

Q.—That is by the faulty system you have spoken of? A.—No, that is by any faulty system.

Q.—By your distribution of profits which you consider the proper system, you do not let the first year of the policyholder produce him any profits? A.—Yes. In the one case, the one is put against the other. They merge there, and in the other plan they are put in the general account and they merge there. The idea that the benefits of mortality should be kept separate from the general savings from expenses I think is pretty well abandoned everywhere.

Q.—At all events you do not agree with me for that reason. Is there any other respect in which you would consider this loss and gain statement fundamentally wrong? A.—Another point is that it ignored the so-called gain from lapses and surrender charges.

Q.—Ignores them where? A.—Ignores them as an offset against first year's expenses.

Q.—Now, while I dispute the fact that there is such a thing as ear marking any source of profit for expenses, if there is any one that can be said was ear marked for that purpose, that one thing is the gains from lapses and surrender charges. Now, a man has a policy on his life in the company. He decides to drop it. The company never gives him, or very rarely gives him, the entire amount of his interest in the company. It nearly always, not invariably, but generally, makes a small deduction from the amount of the reserve. It gives no surrender value at all if he drops out at the end of the first year. Very rarely if he drops out at the end of the second year, and then from the year after just a percentage, gradually increasing till it reaches the full reserve. Now that fact is important for two reasons. It is important because generally it is the good lives that drop out—

Q.—By way of punishment? A.—And the poor ones stay in. It is im-

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portant also on the principle that that man ought to continue to bear his share of the fixed expenses of the company, and has no right to throw the whole burden back on the remaining policyholders. Now, how are those two injuries that are done to the company to be rectified? There is only one way in which they can be rectified, and that is by getting a new policyholder to take the place of the one going out, and the money that is deducted from that man's reserve is deducted for the purpose of buying another policyholder to take his place, and therefore it seems to me unquestionable that gains from lapses should be used as an offset against first year expenses.

Q.—Does that conflict in your view with your contract with your deferred dividend policyholders, who are entitled to the benefit of survivorship in respect of these lapses and forfeitures? A.—No, there is no conflict at all.

Q.—No doubt there? A.—Not the slightest.

Q.—You do not think the deferred policyholders could be entitled to complain if instead of giving him the profits accruing from the lapses or the surrenders, you take them and pay for new business with them? A.—There is this about it; going back again always to this fundamental system of dividing profits and the correct system, what I have been saying just now about gains is based upon the old system of profits. Under the true system such as we used in the deferred profit system, for dividing profits, we make every policyholder pay his way from the start, and the amount to his credit is not the reserve in the early years but the amount of his accumulations on that basis. That is a different thing altogether. Then if there is any gains after that when he has paid for himself, it is all right, but the other man has not paid for himself, the man who came in and put up this additional reserve; other policyholders paid for him. Another way of looking at it would be that he was paying for himself if you choose—

Q.—I am speaking of a policyholder who lapses after his policy is self-sustaining and the reserve all intact, and he is entitled to profit— A.—Well, but he has got profits more than he earned in the early years.

Q.—But I want to know why you are entitled to take the benefit accruing from his lapsing away from the

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class of deferred dividend policyholders, of which class he was one? A.—Are you speaking of deferred dividend policyholders?

Q.—Yes? A.—Any lapses from that are put right into the deferred dividend class with no distinction, and they naturally offset each other in that way. I am speaking of the quinquennial.

Q.—You are confining yourself to the quinquennial? A.—Yes.

Q.—And you do not profess that the whole benefit accruing from lapses, but only the benefit accruing from lapses other than the deferred dividend class, should go to expenses? A.—I claim that either should. These charges are made for the sole and only purpose of buying new insurance—that is all—to take the place of those dropping out, and in that case they should be put to the account for which—

Q.—Well, which is it? I do not want to take up a long time over a matter that is not perhaps of very great moment? Which is it? Do you intend that to apply to the deferred dividend policies, or do you not? A.—I intend it to apply to all.

Q.—A moment ago when I was asking you a question with respect to them you said you were not then speaking of the deferred dividend policies? A.—Well, we were talking then about profits, but I lay it down as a fixed principle, that I do not think can be successfully denied, that these charges are made for the sole and only purpose of buying new members, paying for the introduction of new members to take the place of those that go out, and that, therefore these charges are a proper offset against first year expenses, and that any system of book-keeping or gain and loss exhibit, which ignores that fact is misleading.

Q.—Is there any other fault to find in this? A.—The amount of the loading varies in different companies and according to different contracts. A company that is valuing on a severe standard of mortality or a low rate of interest has high net premiums, and therefore the higher the net premiums the less the margin of loading, and it is essential in all comparisons that they should be upon the same basis, and if—this is an incidental point—if comparisons are made between us on the H. M. basis, with high premiums, and between Ameri-

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can companies whose net premiums are calculated upon the American table of low premiums, that is an injustice to the companies that are in the comparison, and are valuing upon the Canadian standard as compared with those by the American standard.

Q.—I do not think we will waste time over that, because at present we are only dealing with the affairs of a single company and not instituting any comparison at all. Now, is there anything else? A.—Those are the main points, but there are many ways in which injustice comes as in comparison between companies, but I have pointed out what I considered to be the main things, and I may say that the United Commissioners of Insurance of the United States have just recently met, and they have drawn up a gain and loss exhibit under a different form.

Q.—Do you happen to have a copy of it? A.—I have a copy of it here. I have not had time to look it over.

Q.—When you have looked it over will you let us have it to put on record? A.—I will. It is a very voluminous one, and it is very desirable you should give careful consideration to that.

Q.—Do not be alarmed. Careful consideration will be given to everything that is put before us. You will see that we get that? A.—I will. I got it just the other day. These same Commissioners are drawing up very minute questions about profits. I have not been able to get that yet, but that ought to be available.

Q.—We will be very glad to have that. Taking this profit and loss form, faulty as you think it, it shows with all its faults that in the first place your first year's business has cost you a great deal more than the amount that has been expressly provided for that purpose by way of loading? A.—More than the loading, but I do not admit that the loadings are a fair test at all. I do not even admit that all the loadings are available for expenses, because, for instance, suppose a man applies for two policies at the same time on the same plan, one without profits and one with profits. On the without profit policy he has a loading of five dollars, and on the with profit policy, a loading of \$20. Is there any reason why the company should be allowed to spend

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only \$5.00 on the one, but because he has taken the other policy they can spend \$15.00 or \$20.00 more? The amount the company should be able to spend should be the same in both cases, and the very fact that there is this glaring discrepancy between the with profits and the without profits policies condemns the whole system on which this is based.

Q.—You are going back to comparisons. We are not instituting comparisons, but finding out what certain sources of revenue for purpose of expenses produce, and what those expenses are, comparing those two, and not comparing it with any other company? A.—Precisely. I was not comparing it with any other company, but to compare our expenses with loadings is to compare two things that are not to be compared at all.

Q.—Assuming this is wrong, can we go on and get upon the record what it is? A.—All right.

Q.—This shows the loading provided in your first year's premiums for last year was \$199,300? A.—Yes.

Q.—That you made a gain in respect of mortality on policies issued that year of \$45,000, odd? A.—Yes. I would like to put right in here, if I might be permitted—it seems utterly unreasonable that even if you are going to talk about first year's savings in mortality, to say you are only including savings in mortality during the six months instead of during the whole year. I cannot see why that basis should be a proper basis.

Q.—I am taking it that you have made all your objections, and I am trying to get at what the statement, faulty as you think it is, shows. Then that gives a fund which is called in the form "margin on premiums" of \$203,830. your first year's expenses \$777,300? A.—Yes.

Q.—So that apparently taking these items only into consideration you have expenses \$573,000 more than the moneys that this form provides for the purpose? A.—Yes.

Q.—Then you made a saving on the loadings of renewal premiums paid during last year of \$379,000, nearly \$380,000? A.—Yes.

Q.—Then you made a saving in mortality in respect of all the years except the first year of \$93,800? A.—Yes, that is right.

Q.—Then you made a loss on mortality in respect of annuity claims? A.—Yes.

Q.—\$28,900? A.—Yes.

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Q.—Then your interest, dividends, etc., were gross \$958,931? A.—Yes.

Q.—Against which you take out taxes, repairs, investment expenses, \$70,000, and the amount required to add to your reserve to keep your policies straight that year \$670,000, and a gain in respect of interest dividends and losses \$217,217? A.—Yes.

Q.—Then you met with certain profits on the sale or maturity of investments and certain losses, and balancing them you made a gain of \$437,000? A.—Yes.

Q.—And the market value of your securities increased that year by \$692,200. Then you made a gain in surrender and lapses of \$182,000. Then there are some trifling gains there, which shows a net profit for the year \$1,358,786? A.—Yes.

Q.—And that gain you made in the face of that fact that you had, so far as this form and its information goes, you had a loss upon first year business of over \$570,000? A.—So far as that form goes.

Q.—I am trying to guard that so that you won't object to the shape it is put in? A.—Yes. (Exhibit 633.)

Q.—What remedy do you suggest in respect of the great cost of first year's business, or do you suggest any? A.—I think that things are righting themselves very well just now, and I can suggest no remedy at all. I can think of no remedy that would not be worse than the disease.

Q.—Were you worse off the year before than you were this last year, 1905? A.—In what respect?

Q.—In respect of the first year's business A.—We have never made up the return on this basis until called for by the Commission. We do not look upon it as a good basis.

Q.—You probably looked them up on some other basis satisfactory to you? A.—Mr. Wood tells me it is about the same thing.

Q.—It is not bettering itself so far? A.—No, but as I have already told you—

Q.—You expect it to better in the near future? A.—Yes.

Q.—Do you know anything about rebating in your company? A.—There is rebating, more or less, in all companies, but I do not think there is a very great deal in our company.

Q.—You do not think there is more in your company than in others? A.—No, but all companies have a certain amount.

Q.—Do you approve of it? A.—No.

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Q.—Is it done in the head office?
A.—No.

Q.—Is the head office ever a party to it? A.—We may have been in years gone by, but not in recent years, I think. At any rate it would be to a trifling extent.

Q.—You do not approve of it? A.—No.

Q.—And it is not a practice which has the sanction of the executive? A.—It is one that I would strongly recommend should be abolished by any means the Commission could recommend.

Q.—Will legislation be effective? A.—Legislation will help very much, and the fact that there has been so much evidence about rebating before the Commission, shows, I think, that legislation is a necessity, because unless we have legislation affairs will be made tremendously worse by advertising to every person that rebates are given. I would like just to say that there is a clause in our agent's contract which forbids it, and provides for the termination of the contract in case it is done.

Q.—Perhaps that does not frighten them very much unless you can point them to instances where you have acted. A.—This is a clause we have put in one of our recent contracts, and we have decided to live up to it.

JUDGE MAC TAVISH: How long has it been in your contract? A.—Since about July, and we have notified our agents that we intend to live literally up to it.

MR. SHEPLEY: Q.—I see a small item in the profit and loss account, "Bonuses, rewards and allowances to agents." That would not be anything in respect to that—nothing in the way of compensating them for rebates they have made? A.—No sir, we never did, but I see no objection to bonuses and rewards to agents as such if they are properly done, but not rebates.

Q.—You have advanced to agents here and it seems to be a pretty large sum? A.—Yes. That is when we employ an agent, and give him a regular advance for a certain length of time until he can get his commission coming to him. In a good many cases it resembles a salary.

Q.—Then you have furnished us with another exhibit which indicates your method of calculating reserve required by the Insurance Act. That I put in without asking you any questions with regard to it, (Exhibit 634), except I want to know what you have

done in respect of the Government enquiry under the Act? A.—We have put all our reserves without exception to the three and a half per cent. basis called for by the Act on all policies.

Q.—Old and new? A.—Old and new, and hope by the close of this year to get our reserves on new policies down to three per cent.

Q.—How long have you been doing that? A.—Ever since the Act was passed in 1899 until the close of last year.

Q.—What stages did the matter take? Will you give me that just in a nut shell? A.—I will let Mr. Wood answer that, as he is more familiar with it.

MR. SHEPLEY: If it is in tabular form I will put the table in, if it can be understood.

ARTHUR WOOD recalled examined by MR. SHEPLEY:

WITNESS: This is the table which shows the reserves on the Government basis in the first column. Then it shows a reserve reported to the Dominion Government which was on a higher basis than that is it had some provision for $3\frac{1}{2}$ per cent. rate. Then it also shows the reserve which the company has used in its annual reports because for our own purposes we have been reserving on an even higher basis than that which we reported to the Dominion Government. Then the final column shows the excess over the H. M. $3\frac{1}{2}$ and $4\frac{1}{2}$ standards. That shows that at the end of 1900 we had \$370,120 more than the Government standard. The next year we had \$377,441 more. At the end of 1902 the amount was \$449,478. At the end of 1903 it was \$466,439. At the end of 1904 it was \$578,309. At the end of 1905 it was \$1,186,111.

Q.—That was a tremendous jump that year, over \$600,000? A.—Yes, because we were very prosperous in 1905, and made a large amount of profit.

Q.—And you tell us the result of your operations was finally to put you upon a three and a half per cent. basis as to all your business? A.—All business.

Q.—Old and new? A.—Old and new.

Q.—And as to some of it upon a three per cent. basis? A.—None of this.

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MR. SHEPLEY: Q.—At the end of this year what are you proposing to do? A.—We are proposing to put our business since 1899 upon a three per cent. basis.

Q.—You have gone about it in that way, and the result of that has been to prevent as large a fund as might have been otherwise available for policyholders from being available? A.—Yes.

Q.—What have you to say in regard to the sometimes advocated policy of bringing about a change as slowly as the legislation permits you to do, so as to spare your policyholders and make them feel it as little as possible. That is something we have heard from some quarters during this enquiry? A.—The movement has our sympathy and approval. As was mentioned this morning, our original plan was to spread it over the whole 15 years, but on the other hand when we made the large profits in the last few years, we said the very best thing we could do with part of those profits is to apply them once for all to the putting of all our reserves upon a three and a half basis, and last year we did that. The net result is that we have deducted something less than \$200,000 from the profits to our policyholders, and have put about one million dollars from ordinary forms of surplus, without any other reduction so that only about one-sixth—

Q.—When you are comparing the dividend you have paid with the dividend you have not paid, with the dividends you might have paid, but for this change, you say there is \$200,000 difference? A.—A little less than \$200,000 from memory.

Q.—Of course you might have paid a great deal more, but you are comparing it with what you actually paid in the past? A.—Yes.

Q.—And your dividend was reduced? A.—If we had continued on the same rate we had been giving, we would have paid our policyholders \$200,000 more than we did pay them, but the other amount, nearly a million dollars, was made out of other sources of profit.

Q.—Which would have gone in proper proportions to your policyholders, if you had not had to put it up in reserve? A.—Yes.

Q.—You could have paid them from the largely increased dividends? A.—Yes.

Q.—What did you mean when you said you sympathized with the view

that these changes should be made as slowly as possible, so that the shareholders might feel them as little as possible? A.—We think we have done that, when in six years we have only deducted \$200,000 from the profits of the policyholders, we think we are letting them off lightly.

Q.—You paid \$200,000 less than you paid them in previous years, but you paid them a million less than you might have done? A.—Well, they had no right to expect much larger profits.

Q.—Don't say they had no right to? A.—Well, they were not expecting.

Q.—They thought they had been getting good profits, and if they got the same you did not think they would have any right to complain? A.—We considered it was just a question of how we could raise these amounts the Government was compelling us to raise in such a way as to dissatisfy our policyholders as little as possible. It was a question of expediency and we think we managed it very well.

MR. LANGMUIR: Q.—What was the rate of interest on your investments last year? A.—The net rate without the addition of profits on investments 4.67, with the addition of profits on investments 6.77.

MR. SHEPLEY: Q.—Have you modified at all the mortality tables that you had used in computing reserves or computing your premiums? A.—No.

Q.—You are still using the H.M.? A.—Yes.

Q.—Is that close to the Canadian experience? A.—No. The American table of mortality really comes closer to the Canadian experience than the H.M.

Q.—Has that a short name? A.—No, that is its only name, the O.M. is also better than the H.M.

Q.—What is that? A.—A new English table based on the experience of the English offices from the year 1863 to 1893. It means the experience of the British offices on male lives.

Q.—You say the O.M. table is closer to Canadian experience than the H.M.? A.—Yes, but the O.M. table in itself, according to my personal judgment, is not a desirable table. When we speak of the O.M. there are several tables all based upon the one class of experience. There is the O.M. table, then the O.M. 10 table, which is the same experience excluding the first ten years of policies, so far as possible to eliminate the selection, and then there is the O.M. selected table.

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Q.—What would your experience be as to the table upon which the reserves should be computed? Don't you think that the H.M. table, or do you think that the H.M. table gives you higher reserves than there is any necessity for, according to the Canadian experience? A.—I do. The H.M. table gives higher reserves than the American table, and if I might be permitted I could give you my views logically as to what I think about this whole question of reserve.

Q.—That is what we want. We want the best views we can get upon that subject, which is of the utmost importance, the question of the table of mortality to be used in computing reserves? A.—I think the table of mortality and the basis as a whole is one of the most important things that your honors will have to decide. There is no more important point that will come before you than that. The Government basis is of necessity a basis of solvency. That is, it is a test by which life insurance companies are to be judged, whether they are solvent or insolvent. Now, in Great Britain they have no test of solvency at all laid down by the law. It is a matter there of expert opinion.

Q.—Every company there is interested in showing to the public that it is maintaining a thoroughly satisfactory and good reserve? A.—Precisely.

Q.—And that is a matter of pride in the competition between the companies? A.—Yes. There is no basis of solvency fixed by the law, and the opinion of English actuaries—and I may say it is the unanimous opinion, I feel quite sure there would not be a dissenting voice in the body of British Actuaries, and I think most of the American Actuaries would hardly agree with them—that it is a very dangerous thing to fix a high standard of solvency. In fact, as soon as you begin to fix a standard of solvency at all, dangers of one kind and another begin to come in. In Great Britain they have had none, and no dangers have followed, no bad results have followed. In the United States they have had for many years severe standards of solvency with terrible results. 192 American companies have failed, and a large proportion of them would be in existence to-day but for these unwise and unnecessarily severe standards of solvency, which have put into insolvency companies which would have pulled through all right but for those unwisely severe standards. For instance, before the Arm-

strong Commission, if I remember rightly, the Actuaries of the Mutual Life and the New York Life, two of the biggest companies, testified that if there had been these standards of solvency in existence when those companies were young, that those two companies would have been put into insolvency. In Canada we are not at liberty to follow the British example, whether we would like to or not. We cannot ignore the fact that we have had standards of solvency in both Canada and the United States, and our people are accustomed to it, and we cannot break away from that. Then the only thing for us to do is to try and devise some elastic scheme by which we will do away with the danger of putting companies into insolvency that would not otherwise go into insolvency, and yet at the same time not make the stronger company satisfied with a lower standard. That is the problem that really has to be faced, at present we are able to say, as a contrast to what they can say in the United States, that not one Canadian life insurance company has ever yet failed. Now, that is something that we are tremendously proud of, but when we realize that we have a crop, quite a number of young companies, then I do really feel that if we are to maintain our proud boast of the high standing of Canadian life insurance, that we must look most carefully at the standard of valuation because we have a right to see that laws which have wrecked so many companies in the United States will not work out equal evil in Canada if not changed. Therefore, it seems to me that what we want is something that from the standard of solvency will be very easy. I have given a good deal of thought to this, and I have certain definite suggestions to make.

Q.—That is what I was hoping you would do for us? A.—In the first place, in regard to the mortality table, the present table is the H.M. table prepared by the Institute of Actuaries of Great Britain, the same body that got out the O.M. table since then. Now, as the very Society of Actuaries that originates the H.M. table has abandoned it and is recommending a newer table prepared by themselves, it is an absolute certainty that the H.M. table will rapidly become antiquated in public opinion, and if we are to retain it, apart from its value, apart from its real merit, we would be retaining a table that in the course

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of the next few years will be looked upon as antiquated, whether it is really wise or not.

Q.—It is in effect more severe than Canadian experience was, you say?

A.—It is. Then I do not think we would care to adopt the American table, because while it in reality fits in very closely with Canadian experience, it is largely a theoretical table, and is based upon a very limited amount of experience. In reality it does seem to fit in wonderfully with experience on this continent, but I doubt if there would be any Canadian actuaries that would recommend the American table being adopted in Canada. We would look to one of the tables based upon the British offices' experience. The O. M. table itself I do not favour. The reason is a rather technical one. Do you wish me to explain?

Q.—Try and make us understand it.

A.—The British actuaries wanted to get an experience that would exclude all the year before 1863, so that as they said mortality has improved, the sanitary conditions have improved, and they wanted to exclude that. Well they took all the policies that were insured in all the British companies from 1863 to 1893, and then they took existing policies in those companies at their anniversary in 1863 and carried them on to their completion. Now, the result of that was that while the assurances at the younger ages—that while the number of lives at the younger ages, were not affected very much, because there were very few of those old lives that were at the youngest ages—they were not altered very much. Take at age 50, for example, there would be an addition of a large number of those old lives that had been quite long from the doctor's hands, and the proportion of old and new lives would radically change, and, therefore, there was a tendency in the new table to run faster under the normal at a younger age when the benefit of selection was gone.

Q.—I understand you so far. A.—That altered the mortality curve and affected the values. According to my idea what we want for an ideal table is one from which selection is, as far as possible, eliminated, and I think we have it in the O.M. 10 table, in which all the first ten years of every policy are excluded. Objection has been made—and I think well taken,

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to the O. M. itself. But that objection does not in any way apply to the O.M.10.

Q.—In other words if you take the O.M.10 you get rid of the benefit of selection in the earlier years? A.—Yes, altogether.

Q.—You eliminate that factor from the problem, and reach then what may be considered to be a normal mortality? A.—Yes. Then that possibly has the advantage of being one that can be defended as scientific and as modern, and besides that while it does not—in fact the closeness which the mortality of this table, after eliminating the first ten years, resembles the H.M. table, with the benefit of the first ten years all included, is remarkable. But in regard to reserves, while it does not differ very much from the O.M. table it is a little on the right side. In the average company the reserve would be about 99½ per cent. of what would be brought out by the H.M.; so that for assurances my present idea is that I would recommend the O.M.10. I say my present idea, because the life insurance companies are going to get together and have a discussion about these things, and I reserve the right to join in any recommendation they make.

Q.—Do you agree with this, before you leave the matter of the table, that the table of mortality upon which you compute reserves should be the same table of mortality on which you compute any net premium? A.—I think so.

Q.—There cannot be any doubt about that? A.—No.

Q.—What practical recommendation would you make with regard to the rate of interest? A.—Just before leaving the tables, I would like to recommend the British Offices the O.A.M. for annuities, and the O.A.F. for female annuities. In regard to the rate of interest, as I think your Honours know, we consider, and still consider that it was a great mistake to make that change in 1899. Our views have never altered on that point, but we have now to recognize the fact that it is done and we may as well accept the facts. The Canada Life and ourselves have always complied with the law and the other companies are complying with it, and in so far as the rate of interest is con-

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cerned, I do not think it is necessary to alter the law as it stands.

Q.—You would leave that as it stands? A.—Yes.

Q.—You are rather outstripping the law yourselves? A.—Yes. In the way of outstripping the law, we consider the company ought always to have at least one per cent. difference between the rate it assumes in its calculations for its own purposes and the solvency rate, as a margin of safety.

Q.—How has that rate been maintained of late years—your own rate of interest? A.—Our average rate of interest and the rate through the country—about 1899 when the law was passed, that was the bottom dip. The rate was descending till then, and from that time forward it has been increasing and it is likely to increase.

Q.—That is a unique experience in this Enquiry, because we have been hearing the reverse of that? A.—I can prove it by an authority.

Q.—Is it a good authority? A.—Yes, we can take for example what this says about government bonds.

Q.—You are going to let me keep that? A.—Yes, I will give you a better copy than this.

Q.—The copy you have marked is the best copy? A.—Here is a quotation from the Wall Street Journal as quoted in Moodie's Magazine, a leading magazine in the United States, "In a list of 24 of the highest class British Government bonds," (reads from Journal). This shows that the rates have increased in this way the last ten years. There are lots of other figures, but that is sufficient.

Q.—Your view then, supported as you are by this authority, is that the rate of interest is increasing since 1900? A.—It has certainly increased, and shows that it is likely at least to hold its own for some time.

Q.—Then you would be satisfied with leaving the rate at which interest is computed to arrive at reserves to the statute? A.—I would.

Q.—What other practical suggestions can you make upon the subject? A.—From the standpoint of the company in the position of the Canada Life or the Sun Life, we do not need to bother about an initial allowance, but from the standpoint of young companies or companies doing a large proportion of new business, I think it is essential that we recognize in some way the fact that the business does cost more than the premium provides in its early years. That is undeniable, and while we may regret it, we cannot get away

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from it, and it is going to continue. It has been in existence in Great Britain for 30 years and it is a fact.

Q.—Nothing like to the same extent? A.—Yes, I think that proves that.

Q.—Not in all of them? A.—I think I can prove by a quotation from a high English actuary showing the rates are about the same in Great Britain. It seems to me if you take a young company, it may be securing its business in an eminently proper manner, it may be paying no more for its business than it ought to pay or must pay, no more than an old company would be paying, yet as I have said this morning, not one of its policies will be self supporting in the sense of having accumulated their full reserve until they are about four years old. Now, how is that company to make good these deficiencies in the early years on all its policies? Some companies issue stock at a premium and use the premium for that purpose, but you cannot always get that, and the requirement that the company shall have on hand as reserve in order to be solvent an amount which it is a settled fact they cannot accumulate without some side assistance of some kind, is an evil and a great danger. It is just that requirement that has put so many of these American companies into insolvency.

Q.—What is your practical suggestion? Because we have heard of more than one way of minimizing that trouble? A.—There are two ways that occurred to me as possible ones. One is a system which is very common in Germany and which has been recommended in England by leading authorities, and which has lately become very popular with new companies in the United States, known as the preliminary term system.

Q.—Preliminary term insurance? A.—Yes.

Q.—The feature of that is what? A.—That the first year of insurance is considered term insurance for one year, and then the full reserve is put aside on the assumption that the man is assured for one year, later than the actual year of entrance, and it goes on, and the reserve begins to accumulate only at the end of the year.

Q.—The preliminary term insurance is theoretically issued at the cost of it, and that cost of it is all expended in carrying the insurance for the preliminary term of the year, and nothing left for reserve and nothing provided for reserve? A.—Precisely.

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Q.—And after that? A.—After that they go and accumulate just in the ordinary way.

Q.—That is one method? A.—Yes.

Q.—You need not elaborate that, because I think we have had a good deal about that: You did yourself engage in preliminary term insurance at one stage of your career? A.—We did for about a year and a half or two years.

Q.—You had difficulty with the department upon the side? A.—Yes. We held then that this was an improvement over the old system, and if the contracts were clearly worded it ought to be allowed, but the department ruled otherwise and we dropped it out.

Q.—That is one method of minimizing the difficulty arising from the excessive cost of first year insurance? A.—Yes.

Q.—What other method occurs to you? A.—They have adopted another method in New York, the select and ultimate, a method of which Mr. Dawson is the originator. That method assumes that the mortality of the companies will reach and exactly equal that of an American table, and that for the first five years there will be a favorable mortality, and practically it just comes to this, that it is a means by which the companies are allowed to take credit as a deduction from the full reserve of the discounted value of the theoretical saving in mortality for the first five years upon the basis laid down in the Act.

Q.—In other words the requirements as to reserve is moderated, if I may use that word, it is moderated in the earlier years of the policy by the adoption of the select and ultimate table which includes all the early benefits of medical selection? A.—Yes. It is permitting a reduction from the reserve of the discounted value of the theoretical saving in mortality for the first five years, and the only basis upon which that can be properly allowed is upon the theory that any saving in mortality is a proper offset against expenses. Then of these two methods, if you have a choice, I think that a plan somewhat corresponding to the second one, but not exactly the same as it, is a good one. We would not want to adopt the American Table, neither would we want to adopt the theoretical basis of percentages that is adopted in New York, but if we were to adopt the O.M. 10 table, we would be adopting a table that unquestionably is a

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sound ultimate table, the one to which our mortality might be expected, if it exactly agreed with the English mortality, at the end of ten years to rise, and if in conjunction with that we assume for the first ten years the mortality according to the select table of the O.M. experience, then we would have something that would have no theory about it at all, would be an actual combination of tables upon a scientific basis.

Q.—That would be something approximating, certainly corresponding in its theory, with the select and ultimate method you have spoken of? A.—Corresponding exactly in theory, although I would very much prefer that the exact phrase "select and ultimate" should not be used for two reasons. In the first place the phrase "select and ultimate" has come to be identified in the public mind, in the mind of insurance people, as meaning the Armstrong basis. There are several select and ultimate bases that could be adopted. The Armstrong is one, and this one we are talking about is another, and the one I have spoken of, while it is absolutely in accord in the theory with Dawson's suggestion differs in the details, and the phrase "select and ultimate" in the insurance mind has come to mean the Armstrong basis.

Q.—You would replace the terminology select and ultimate by saying "combination of O.M. and O.M. 10?" A.—Not exactly. Before I pass on, the other reason is that to the public mind the phrase "select and ultimate" means nothing, and I think it ought to be something that means something more to the public. And therefore my idea would be to use the O.M. 10 with the O.M. table really in exact union with Mr. Dawson's theory of course, but with a clause like this—a foot note "These companies that are marked with a star for example, have taken advantage of the provisions of section blank of the Insurance Act, and have deducted from the ordinary reserve the discounted value of the expected saving in mortality for the first ten years of each policy on the basis of the select experience of the English offices table, the O.M. with the M. in brackets, as compared with the regular basis the O.M. 10."

JUDGE MacTAVISH: Q.—You think the public would understand that better? A.—I think it would make it more clearly understood. I think any company should

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be at liberty to make this deduction from its reserve, with no penalty of any kind at all, except that of making the fact that it has done that publicly, so that any person could see it. That would be a step in the way of doing justice to the younger companies, they could divide their profits on that basis, and it would do away with a great many evils.

MR. SHEPLEY: Q.—Is that substantially what you have to tell us about your views on the subject of reserve? A.—No, I think that that is not sufficient. This step in regard to an initial allowance is a step in the right direction, but it is such a terrible thing to put an insurance company into insolvency, and there is no question but that while I have said that the rate of interest assumed in the Act—that I would be willing to let that go, yet it is such a dangerous thing to have an artificially high standard, that I think we ought to provide that no company shall be actually put into insolvency unless it be insolvent if its reserves were calculated, making this full allowance, and also at one-half per cent. higher interest than the Act calls for, but in no case over 4 and one-half.

Q.—You would not affix the final stigma of insolvency upon a company unless it fell below by half per cent. upon its computation? A.—That is the half per cent. rate of interest, yes. It is a fearful thing to put a company into insolvency and we ought to try and make it as hard for a Canadian company to get there as possible, but on the other hand I think if a company allows itself to get into such a bad position that it not only has no surplus, on the ordinary standard called for by the Government, but even after deducting allowances for selection, has to fall back upon this further thing, that while we want to save it from insolvency, we want at the same time to force it into re-insurance. Now, while any such company we think should be allowed to transact old business and not be put into insolvency, we think it should be prohibited from writing participating insurance, because for a company like that to be allowed to continue and write policies promising profits, would be allowing a fraud. What they should do would be to seek insurance in some of the stronger companies.

Q.—You would have a plan of absolute solvency, following the standard in its integrity. Then you would have a plan below that of insolvency,

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because they have fallen below the intermediate ground, which would be a sort of Tom Tiddlers ground between? A.—An allowance for young companies—

Q.—You would have to apply it to all? A.—Yes, I would let any company at all that wanted to take advantage of that provision with no further restriction than to make the fact very plain in its returns. While that I think would cover the ground from the standpoint of providing for solvency, I think we ought to encourage the companies to put aside higher reserves.

Q.—How would you encourage them to do that? A.—I would rely upon publicity, and I would have first of all, as we already have in the blue books, a statement of the assets and liabilities of every company, and a detailed statement of what the basis of valuation is, and if any company adopted a higher basis I would just put a note like this: if a company adopted a higher standard, place a star opposite it—"The Government standard of valuation is not to be considered as a maximum. The companies thus marked have set aside stronger reserves than the amount required by the Act to the extent shown by the basis of valuation named in each case." Just state the facts and the public opinion will do the balance.

Q.—And you would expect to find an asteric opposite the Sun Life? A.—Yes, and there would be several others, because there are several others there already, but I would like to say that I would reserve the right to change my views after the conference with the companies.

MR. SHEPLEY: Q.—I put in almost without comment your returns in respect of surrender value and paid up policies (Exhibit 636). That will show the methods you adopt and the figures you arrive at when you are considering what you will give to the policy holder who surrenders or who becomes entitled to a paid up or surrender value? A.—Yes.

Q.—This is a comparison of reserve bases and on the last page of that you have made a comparison between the separate tables and separate hypotheses you have adopted reducing them to percentages? A.—Yes.

Q.—These are the figures (reads)? A.—That shows that before a company could be actually insolvent it would have to be ten per cent.—

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Q.—It would have to lose ten points?
A.—Yes.

Q.—What is this last one? A.—The modified preliminary term.

Q.—This is the last of all with the exception of the line dividing insolvency? A.—Yes, I thought it might be desirable and it will give a good grasp of it. (Exhibit 637).

Q.—Then it sums them up in a way that I am sure will be quite useful to us. Then I am going to hurry through several of your returns to us, showing the allocation of profits. That somewhat explains the information you and Mr. Wood were good enough to give me this morning (Exhibit 638). But for the explanation we got this morning I should trouble you a little more on that point. I think you have told me pretty fully about that? A.—I really think that if your honors can solve this question of a proper basis of solvency that will do justice on all points, you will make the Canadian law the best. It is a very, very important matter, and you will do more to benefit Canadian life insurance than almost anything else you can do.

Q.—This is a return you have given us showing the policies of the different kinds in force and the total amount of insurance of each kind, and then those are reduced in the last page to percentages. I see the largest volume of insurance is the 20 payment life, and the next largest is the whole life, and the percentages being 29, 39, etc., and the third is the 20 year endowment. Are those the two, the 20 payment life and the 20 year endowment and the deferred dividend? A.—Here is the deferred dividend and here is the total.

Q.—Then it is manifest that the deferred dividend policies largely outnumber the other insurance? A.—About 68 per cent.

MR. WOOD: 68.66 per cent.

WITNESS: And perhaps I may just add here that we have not for many years made any distinction in commission, that we pay exactly the same commission whether a policy is on the deferred profit plan or the quinquennial profit plan, and it makes not the slightest difference to an agent and yet 68 per cent. of the business was on the deferred dividend, showing that it was popular with the agents and that the question of commission does not enter into it at all.

Q.—Now in connection with the next exhibit I am going to put in, which is the exhibit entitled "Standard Asset shares" or your asset share system.

Give us in outline your description of what that is? A.—That is a computation of how a typical company would work out charging our regular premiums crediting the fund with our regular premiums, charging it with the rate of expense that we think can be properly assumed by us, crediting it also with the rate in interest that we think we have a right to expect, also debiting it with the mortality we think it will experience, getting as near as possible to what we think the company will experience, and we work out on that basis the actual amount which every deferred policy would have to its credit of the company's actual experience agreed exactly with the supposed experience. Of course in reality it could not agree exactly, although it does agree very closely. Then when it comes to a payment, we agree to give the policy holder a percentage of the amount he would get on this theoretical basis, that percentage being settled by whether the amount we have on hand to the credit of the deferred profit of the policy holders is more, equal to or less than the theoretical amount we ought to have on hand.

Q.—Perhaps you would just illustrate from this exhibit? A.—Mr. Wood prepared this, and I will let him explain it.

MR. SHEPLEY: Just illustrate the explanation Mr. Macaulay has just been making.

ARTHUR WOOD (Recalled). Examined by Mr. Shepley.

WITNESS: This is practically the same as I explained this morning.

Q.—But it is a little more in detail. Give it a little more fully? A.—In the first place I have the lapse ratios according to the company's experience of the various plans. Then we have the basis adopted in the calculations, the basis of mortality assumed, the rate of interest, the expense rates and so on.

Q.—Are those assumptions or are those exact? A.—Those are assumptions approximating close to the company's experience.

Q.—They are intended to be— A.—Very close to the real thing.

Q.—And if you could do it with accuracy you would get the exact experience, would you? A.—Well we will probably later on, after a few years, get more information together, and get more exact rates, but these we consider quite close enough for the purpose for which they are used. Then

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for each plan and for each age we have prepared a table, which shows the number on the assumption that 10,000 persons assure at that age, the number who pay premiums year by year.

Q.—That is modified from year to year by what you have ascertained from lapses? A.—That takes into account the mortality rate and the lapse rate on which this is based. We have also here the death claims on that same basis, the surrender value charges on that same basis, and the total payments which would be made out of the fund at the end of each year. On the other side we have the amounts paid into the fund in premiums each year, the expenses charged against the fund at the beginning of the year. The amount is accumulated at 5 per cent. up to the end of the year. Then we deduct the payments which would be made out of the funds at the end of that year, and the balance is the fund in hand. That fund is divided by the number of policyholders surviving in that group, and from that we obtained the average share of each such policy in the fund.

Q.—That is the method of this exhibit? A.—Yes.

Q.—And in that way you have as you say an average, and it is more or less accurate, according to the greater or less nearness to which you have come in the assumptions you have made? A.—Yes. (Exhibit 640.)

Q.—Perhaps you would explain this document. This is headed "Rates of — A.—This first table is a table prepared to show the rate of interest actually realized year by year on the company's funds.

Q.—Can you give us some aggregates from that? A.—I can give you the figures for each in that year.

Q.—What is the highest? This runs from what date? A.—From 1884 to 1905. The highest rate is for the year 1888, which is 5.30 per cent. If we take into account the profits realized on investments as well as the actual interest the highest rate was that for last year, 1905; 6.77.

Q.—What is the rest of the exhibit? A.—The next table is a table which shows the general expense ratios of the company for each year, 1884 to 1905, made up upon the basis of charging ten times the rate on new business as is charged on renewals.

Q.—That, of course, is an assumption, too? A.—Yes.

Q.—And that may, or may not, be accurate? A.—It is the method which is generally accepted in Great Britain. That is the method which is used in Bourne's directory, for instance. One of the insurance directories that tabulates the returns of insurance companies.

Q.—That is an assumption—and it is an assumption which you make, in accordance with the practice which is more or less general? A.—Yes.

Q.—What do you come to next? A.—In the next page we have the reserve dividend fund.

Q.—Is that supposed to be a statement of the funds you have on hand applicable to the reserve dividend? A.—Yes.

Q.—Of all kinds? A.—Of all kinds of policies. This is a Canadian branch here by itself. This first page shows year by year the amounts paid out by the company under reserve dividend funds under Canadian policies. (Reads from memorandum.)

Q.—What is the state of the fund now? A.—On the 31st December, 1905, the total funds to the credit of reserve dividend policies amounted to \$11,610,315.24.

Q.—Did that include reserves? A.—That included reserves.

Q.—Can you divide the reserves and the surplus? A.—I have the surplus right here.

Q.—You gave me the surplus this morning? A.—Yes.

Q.—You might give it again in this connection? A.—The surplus amounts to \$1,273,061.85.

MR. LANGMUIR: Q.—You say 5.7 was the average for last year? A.—6.7.

Q.—But without the profit? A.—4.65 was the rate for last year.

Q.—And with profits? A.—6.77.

Q.—That was on actual sales? A.—Actual cash received (Exhibit 641).

MR. SHEPLEY: Q.—Then taking up the question of the quinquennial policies, there is a statement here which you will no doubt explain to us, which is of a similar kind? A.—This is the statement giving examples of profits allotted at various divisions of policies on the 5 year distribution plan. Our method in the case of 5 year distribution policies, as was explained this morning, is to allot the profits in proportion to the loadings on the premiums, and the interest, in proportion to the reserves held against

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the policies. This statement shows the actual results under such policies as we paid in various years.

Q.—Are these samples? A.—These are simply samples.

Q.—For different ages? A.—Yes, and the different plans, life, and life 20 and endowment 20.

Q.—Those are the three you have? A.—Yes.

Q.—And this is in connection with what is called the Northern business, and I am not going to embarrass the enquiry by going into the other? A.—Yes.

THOMAS B. MACAULAY, recalled.
Examination resumed by—

MR. SHEPLEY: Q.—May I ask you a question that is somewhat personal? Is the arrangement as to salary that you and the President have with the company one which ranges over a number of years or a yearly arrangement? A.—It was fixed for a term of years. The last year of the term will be next year.

Q.—That is in 1907? A.—Yes.

Q.—What will the salary be this year and next year according to that? Will they go up \$1,000 each year? A.—The President's salary this year, 1906, is \$19,000. In 1905 it was \$18,000, and in 1907 it will be \$20,000. After that there is no arrangement. My own salary last year was \$13,000, this year \$14,000, next year will be \$15,000, after that no arrangement.

Q.—That has been going on since 1902? A.—Yes.

Q.—With yearly increases ever since then of \$1,000 each? A.—Exactly.

Q.—What position does Dr. Macaulay occupy? A.—Dr. Macaulay is the Manager of the company for Eastern Asia, headquarters Shanghai.

Q.—His remuneration seems to have been fixed in some way by commission. A.—Solely by commission.

Q.—Down to 1905 it seems to have been a round sum. A.—It was limited in 1905 to \$12,000. It could not exceed that.

Q.—The arrangement is with him that he shall receive commissions, but the commissions are not to exceed a certain sum of money, is that right? A.—Yes.

Q.—And he receives commissions from the whole of that territory? A.—Yes.

Q.—On all the business that is done there? A.—Yes.

Q.—What is his rate of commission or does it vary? A.—It varies in different plans.

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Q.—Then you have a Board of Directors in England? A.—A board of trustees.

Q.—You have cut them down recently, I think, or at least they have been cut down by death in 1902. You had three in 1902 and you have only two now. A.—Yes.

Q.—How is this amount arrived at, \$1,022? A.—That amount is 200 guineas.

Q.—A year, each of these gentlemen get? A.—Yes.

Q.—What are their duties? A.—We have deposited in Great Britain over \$500,000 of securities in the Bank of Scotland in the name formerly of three trustees. The Marquis of Dufferin, the Earl of Albemarle and Sir Charles Dalrymple. When the Marquis of Dufferin died, we did not fill his place and the two remaining trustees continued the trust. Their duties are merely that of holding that money for the benefit of the British policy holders.

Q.—Have you ever given personal attention to the proofs of loss you exact. Don't you think they might be simplified very much? A.—I gave attention to them some years ago, but I think we have nothing that we should not ask, that is not really required.

Q.—They seem to be very cumbersome and long and you ask a very great many questions. A.—Well, when we are going to pay a lot of money we want to be sure that we should pay it and that we are paying it to the right person.

Q.—I will point to one or two of the questions. Take No. 8. This is a question to be asked of the claimant and part of it is in italics. When did the very first indications of failing health show themselves? Had deceased any illness previously? If so, give details?" A.—I thought that was underscored just now.

Q.—No, that is printed. A.—Well, that is when a claim comes in perhaps as we every now and again have it, a very few months after the man insured. Then we want to know. We ask the person when did the first symptoms of that disease show themselves. This man has died of consumption within three or four or six months; when did the first symptoms show themselves?

Q.—"The very first indications of failing health?" A.—That is putting it as forcibly as possible to get right at the facts. It has no bearing at all, unless in the case of a claim that arises

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very shortly after the issue of the policy.

Q.—It might be a very difficult question to answer. A.—They can answer it indefinitely and it is of no importance unless it be a case—

Q.—They are all of importance. They must be of importance. Then the question whether he had any illness previously and if so give details?

A.—Just to try and see if the man has been committing a fraud upon the company, that is all. Our policies are indisputable after two years, so that they can answer what they like. We only want to know whether it is a bona fide case or not. We do not find claimants object to that kind of answering. It is a very simple question and very easily answered.

Q.—“6. State all the facts regarding the causes and circumstances of death. If there has been any reference to the matter in the public press please attach full clippings thereto.” That is rather a severe requirement?

A.—Well, the reason for that is, we get so many statements just “Accident,” “Killed by car.” Something of that kind, and I myself suggested that long ago, if there was anything in the newspapers put it in, send it along, and they attach any little clipping.

Q.—You say you do not find that people make any complaint? A.—Not at all.

MR. KENT: Apparently nobody ever complains of the Sun Life? A.—Very few, I am thankful to say, Mr. Kent.

MR. SHEPLEY: Now, Mr. Macaulay, I cannot say that I shall not want to examine you again at any time before the inquiry is over, but for the present I have asked you all the questions I desire to ask.

MR. KENT: There are one or two questions I will ask you, Mr. Macaulay. I notice that the lapses in your company are, I may say, something extraordinary. In 1904 the lapses appear to be \$9,000,000. The lapses of the Canada Life in the same year were just about half that? A.—Would you mind letting me see the figures, Mr. Kent. I have here the figures for 1905, which show the total amount of lapses \$4,471,000.

Q.—This is lapses and not taken? A.—Oh, that is another story.

Q.—It seems to me about the same thing? A.—Oh, well, Mr. Kent, you are not an assurance man or you would know there is a difference. Not taken policies are those that nothing has been paid upon at all.

Q.—Well, the lapsed policies were four and a half millions; the not taken, a trifle over; \$4,600,000? A.—Yes.

Q.—It seemed to me that considering that the Canada Life, which we will say is the second best company in Canada? A.—Hear, hear.

Q.—Has only policies lapsed of \$2,600,000, and not taken of \$1,800,000, whereas its total insurance in force was \$101,000,000 against your \$85,000,000. There was probably some reason for the lapses and the not taken policies in that year. It might be something abnormal. I was wondering whether that had some connection with the rebating proclivities that we have heard so much about in the course of this inquiry? A.—In the first place, Mr. Kent, the proportion of not taken policies does not bear any relation to the amount of insurance in force. It must be compared with, if compared at all, with the policies written. Not with the insurance in force at all, and we wrote a very great deal more than the Canada Life.

Q.—You wrote \$20,907,000. as against their \$13,000,000? A.—Exactly, so that we ought to have about 60 per cent. more than they to be on the same footing as them. And the next point is that I am not at all sure that their system is exactly the same as ours. We have been in the habit of, for instance, including in that any policy we write at all; some companies do not; they just drop it out; some of the American companies drop it out altogether. I do not think you can attach much importance to that particular item unless you are sure the two companies are doing business on exactly the same methods. Here is one point of distinction right at once; we have a system of assuring under-average lives. If a man applies to us for a policy and we find he has considerable consumption in the family we say we will not issue a policy at ordinary terms but we will write you one, subject to a lien as an under-average life. We send the policy and the agent tries to place it. The man says, “No, I am not going to take it with a condition like that.” The policy is returned “Not taken.” The Canada Life does not do the same amount of under-average business that we do and that in itself would go a long way towards explaining any difference.

Q.—Then we come back to the question of the policyholder voting. It

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seems to me that in the conduct of the Sun Life business there is nothing to be desired as far as the present generation is concerned? A.—Thank you.

Q.—If you were immortal I would not say anything further about it, but in the course of time somebody else will assume the management of the Sun Life. If, by sound judgment, hard work and just discrimination you have put the Sun Life on the pinnacle of a successful company, another manager, with other attributes might just as easily squander it. Now, it seems to me that the policyholders in your company would have no recourse whatever against any mismanagement by any of the directors or by one of them; they would have to sit on the fence and just look on while the vessel was being wrecked. You seem to fear that if the policyholders had a vote that they might use that vote to the detriment of the existing manager. And in your view to their own detriment. I am perfectly convinced that there is nothing in that objection. As I said before, one of the best companies that we have examined was a mutual company; consequently all the votes were given by policyholders. The management has not been changed in that company and there is no reason to fear that it will be as long as the management is of the present high standard; and I am quite sure that there will never be any danger of a man like Mr. Macaulay being changed as long as he continues to pay better dividends to his policyholders than any other company, as long as he gives his shareholders more than they can get anywhere else for the same money. It must not be forgotten that the insured represent \$85,000,000. Your reserve which you are holding for the policyholders to-day is over \$19,000,000; put \$19,000,000 against your \$105,000 contributed by your stockholders, and what is it? A mere flea bite. This is a case where the tail is wagging the dog with a vengeance. The directors have done their duty nobly; there is no complaint to be made against them or any one of them; but, I say, with the revolving years must come a change in the management; who can say whether the future management will continue the present high standard of your company? Who can say that the policyholders are not warranted in asking that they shall be permitted to possess a certain control? Supposing

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they never will exercise it; I don't suppose that it will be exercised perhaps once in 20 years and I would not be in favor of it being exercised otherwise than personally in any case. But I have always maintained that it is the duty of every life insurance company to give a vote to its policyholders and it seems to me so eminently just, that it would be a wise thing for the Sun Life to take into their serious consideration that view, because as you have stated, one result of this examination will be to show to policyholders what they may ask in the future. You may depend upon it that they will ask that amongst other things and it will be well if your company is prepared to grant it when or even before it is asked. I have not dwelt at any considerable length upon this one thing with any other company, because I was waiting until we got to yours. I should have been very glad if I could have seen that your company allowed its policyholders to vote. As a matter of fact I thought the policyholders did vote in your company. I supposed they had been so satisfied with the treatment they had received so far that they did not think it necessary and probably they thought they would get all that was coming to them without asking? A.—Do you wish me to answer, Mr. Kent?

Q.—I do not expect that you can give me that promise, so it does not matter. If you would say that your directors were going to grant that I would be very glad to know it? A.—I cannot let it pass without at least thanking you, Mr. Kent, very heartily, for the very kind way in which you have spoken of the management of the Sun Life. I can only say that as soon as we see any sign whatever of a desire on the part of the policyholders to have a vote then we will certainly take it into serious consideration, but at present I see no indication whatever of it. We have never had a request from any policyholder so far as I know of.

Q.—You will have it next week, Mr. Macaulay?

MR. GEARY: You apparently agree, Mr. Macaulay, on the basis of this form of profit and loss statement, that there has been an important outlay in regard to first year's business in excess of the moneys provided for expense in getting that business, taking it for granted that this form may be wrong or right? A.—Oh, if you

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say on the basis of that form all right, but I don't agree to that form.

Q.—I will confine myself to the basis of this form. In this statement you have taken this basis of calculation, that you apply the whole of the first year's premium towards the expenses (Mr. Wood answers until a change is indicated)? A.—Yes.

Q.—How did you arrive at that, that is an arbitrary amount? A.—Our expense ratio for some years past fluctuated around 100 per cent.

MR. MACAULAY: And that is a usual percentage in many companies, including some of the very best.

Q.—There is no comment to make on the 10 per cent. renewals and the percentage you have taken for mortality. Now, this statement shows that you have taken 10,000 entrants and you have no surrender values paid during the first year? A.—No.

Q.—Your total claims paid amount to \$33,825? A.—Yes.

Q.—Now, getting to the second page of the same policy we find that you have had payments aggregating \$213,000 for that year (Mr. Wood answers)? A.—Yes.

Q.—You have deducted the whole of that for expenses? A.—Yes.

Q.—Added to this deduction the amount you had paid which in that year consisted only of death claims and you have a deficit then of \$33,825 in the first year? A.—Yes.

Q.—Your fund then is £3.39 short of the amount required at the end of the first year to put up the reserve? A.—Yes.

Q.—And at the end of the second year your fund is \$10.45 and your reserve required is \$18.57? A.—Correct.

Q.—You say that it is in this particular policy overtaken in the fourth year? A.—In the fourth year.

Q.—When the fund is \$43.35 and the reserve \$38.19. In that particular class of policy? A.—Yes.

MR. MACAULAY: That is about the average as I said once before, about four years.

Q.—Now then the 20 payment life, I need not go through the same thing with you again, takes on the average according to an extract that has been made of this statement, 5 years to overtake the reserve (Mr. Macaulay answers)? A.—It is overtaken in the fourth year.

Q.—Then take age 35. It is not quite overtaken there but is overtaken in the 5th year? A.—Very shortly after the fourth year.

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Q.—At age 55 it is overtaken somewhat later (Mr. Wood answers)? A.—Yes, just after the the payment of the 5th premium.

Q.—Then turn up the 20 year endowment? A.—At age 25 it is overtaken just after the 5th year. The 6th is ahead. As soon as the premium due at the end of the 5th year is paid it will be overtaken.

Q.—Age 35? A.—Practically the same thing.

Q.—Age 45? You have no example for 55? A.—Just about the same thing. In the 6th year.

Q.—Why is it that the two latter classes of policies, the 20 payment life and endowment policy are that much longer in overtaking the reserve?

MR. MACAULAY answers. Simply that they are not loaded quite so heavily. The margin of loading is not quite so heavy in those other plans as it is properly on the straight life.

Q.—You are taking still the 100 per cent. of the premium in each of those classes? A.—Yes.

Q.—From those two policies instead of taking your whole 100 per cent. should not something be saved from the 20 payment life and the endowment policy? A.—We usually pay the same commissions upon 20 payment policies of any kind and therefore we have treated them all alike.

Q.—I don't think it has that effect. A.—Yes.

Q.—You take that much more for expense? A.—Yes.

Q.—Do you remember that in 1886 and 1887 do you recollect so far as to be able to say that this abstract is correct (Mr. Wood answers)? A.—That appears to be the rate taken from the Manual in use prior to 1904 at any rate.

Q.—Have you any comment to make in regard to the size of those life and dividend paying premiums? A.—In what respect?

Q.—Do they strike you as being at that time rather low in those plans, the limited payment and straight life plan? A.—Of course they were calculated on an entirely different basis.

Q.—Were they at that time particularly low? A.—(Mr. Macaulay answers) The limited payment plans would be more affected by the change of the basis of interest than any other plan because discount works more heavily on them. The rates were all low in the early days because of being

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based on the H.M. $4\frac{1}{2}$ per cent. which was at that time the Government standard.

Q.—Let us see how far that works out? We leave the endowment rate alone for a moment. It is not a low rate. A.—The 10 year endowment was high but the 20 year endowment was low.

Q.—You had in regard to that 10 year endowment or have now on that old rate book a note that this class of policy is not sought by the company? A.—We have never desired 10 year endowment policies.

Q.—What is the reason for that? A.—Because we cannot cut the commission down as low as we would like and it runs out in 10 years. We do not care for policies that run such a short term. We discourage it simply because we do not want a policy that runs for such a short period and gets off the books so quickly.

Q.—That is an endowment policy? A.—Yes.

Q.—You do not differentiate against the 10 payment life? A.—Oh no, because that continues on our books.

Q.—Then in the year book for 1888 to 1895, which was a subsequent rate book do you observe the change in your rates at that time, do you see the substantial increase in the life payment at that time? A.—Yes, and not in the endowments.

Q.—Then there was a decrease as a matter of fact? A.—On the short endowments in those early days when we charged \$103.90 for the 10 years endowment, that was too heavy and we changed that. In fact we couldn't do business at all on those rates.

Q.—In regard to the life? A.—The other ones we increased and of course the change in the rate of interest affects the short endowments less than any other policy.

Q.—What change in the rate of interest do you refer to at that time?

A.—The rate had not changed. We had just adjusted it and at the moment I cannot remember on what basis we readjusted them. I could find out but at the moment I don't remember.

Q.—Was it an arbitrary division finding the others too small? A.—No, it was just a change of basis.

Q.—There was no change in the base of reserve? A.—No, I don't remember just why we changed that but it is very evident that for a 10 year endowment the old rates were too high.

Q.—In the next year, you will observe, there was a general increase. A.—That was when we changed our

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basis of reserve to the 4 per cent. standard.

Q.—Had you actually changed them at that time? A.—We did change them at that time or just about then.

Q.—That is the explanation, that you had changed or were in preparation for a change? A.—Precisely.

Q.—Your values were still given at that time on a $4\frac{1}{2}$ basis?

(Mr. Wood answers). No, a 4 per cent. basis in 1896, I feel absolutely certain, that is my recollection, I think we reported to the Government on a 4 per cent. basis on the 31st December from 1894 or 1895; whether we reported that to the Government or not we certainly valued in our own annual report on that basis. That is in the annual report furnished to shareholders and policyholders.

Q.—You were valuing in your own reports on the 4 per cent. basis, weren't you? A.—Yes.

Q.—And that accounts for the difference you made in the premiums then? A.—Yes.

Q.—Now after 1899, the next column there, you had changed or were changing.

(Mr. Macaulay answers). That was just a general increase that we thought necessary without any change in interest. Still on the 4 per cent.

Q.—And it might be said, an arbitrary increase in rates. (Mr. Wood answers). Readjustment of the method of loading.

MR. MACAULAY: And readjustment of the rates we decided upon because we thought it desirable.

Q.—There is a straight raise of \$1 in life.

MR. MACAULAY: It would not work out like that. It should be a change in the basis of calculating them altogether. The exact manner is explained in all these blue books and the returns.

MR. WOOD: I think we had a percentage loading only, in these early days; when we adopted this basis in 1898 we adopted the plan of a percentage and a constant. That explains the difference. A percentage of the premium.

Q.—That is the first time you had adopted that plan? A.—Yes.

Q.—A percentage and a constant loading in all cases? A.—Yes.

Q.—And that was not, you are sure, an arbitrary extension of the rates? A.—No, certainly not. The full details are given in the reports furnished to the Commission. In 1900 that was

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when the new legislation came into effect, 1st January, 1900, and the rates were calculated upon a $3\frac{1}{2}$ per cent. basis with a loading of a percentage for the net premium and a constant.

Q.—I made a note here which I think is borne out. The endowment rates were at that time lowered all along the line. A.—The 10 and 15 year endowments seem to be a little bit lower.

Q.—Can you give me any actuarial explanation of your change on these endowment rates? A.—These are the uniform rates which were adopted by about I think, 13 of the Canadian companies at the time the new reserve basis came into effect.

Q.—Did you take part in the adoption and preparation of those rates? A.—I think we had something to say in connection with them, but we decided any way to adopt the uniform rate, the same rate that was charged by the other Canadian companies.

Q.—Is the same scientific basis I may say, adopted in preparing these endowment premiums as used in this? A.—Yes, except that the percentage of loading is not quite as high in the case of the life and limited payment life plans, the percentage is 20 per cent. of the premium and a constant at \$3 per 1000. In the case of the 10, 15, 20 year endowments the percentage is $17\frac{1}{2}$ per cent. and \$3.

Q.—That is in the preparation of those rates that was used? A.—Yes.

Q.—You will observe that they have been reduced first? A.—Yes.

Q.—Then raised, raised a little more and then reduced in the endowment class? A.—Yes.

Q.—Until the preparation of the rates of 1900 there was no scientific basis for the fixing of those endowment premiums? A.—Each company fixed them according to its own ideas. What it thought it could get. But at that time, when the uniform scale was adopted we felt practically forced by competition to charge the uniform rate.

Q.—That is the point I am getting at. Those rates were fixed by the association you have mentioned? A.—Yes.

Q.—And competition forced you to come in with them and fix these? A.—Yes, we had originally charged a little bit higher rate and we came down to the uniform rate. We considered it desirable to charge the same rate as the principal companies were charging.

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Q.—If you have a $17\frac{1}{2}$ per cent. loading plus a constant in the endowment premiums, and a 20 per cent. loading plus a constant in the life premium, to call them life to distinguish them, then your endowment premium is contributing hardly as much relatively towards the expense. A.—It is a heavier premium. Not as high a percentage.

Q.—Would it be fair to reduce the percentage of loading on endowment policies so that they should not contribute so great an allowance for expenses? A.—What is that again?

Q.—To reduce the expense loading on endowment policies which would net a less sum on these policies. A.—The total loading in the policy is not, as has been explained to-day, an excess provision for expenses, and although these premiums were always charged previously, of course the profits depend upon the loading which is in that premium so that the matter adjusts itself.

Q.—As a matter of fact those loadings are diverted in the first place into an expense fund, are they not? A.—We do not put them to any expense fund.

Q.—Do you calculate that you have that amount for expenses in the first instance? A.—We have never, until the present gain and loss exhibit was required, been in the habit of calculating our loadings every year. That is the loadings on our total premium.

Q.—Take the 10 payment life estimate of 1887 and results of 1901. You put in an estimate of \$85 and you actually realized what amount according to that statement? At age 25 your estimate was \$85 and your actual was what? A.—\$88.

Q.—At age 35? A.—\$109 estimate and \$108 actual.

Q.—At age 55? A.—\$190 estimate and \$188 actual.

Q.—What would be your comment in regard to your estimates for that particular period? A.—Simply that as far as that particular plan was concerned that the estimate was a little low at the younger ages and a little high at the older ages.

Q.—Take your 10, 15 and 20 year policies. For instance this 15 payment life policy estimate at 25. A.—Estimate \$1,177. You are only including in there the profit, you are not taking into account the reserve on the policy?

Q.—No, just the profit. A.—Well, that is \$125.

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Q.—And at age 35 ? A.—Estimate \$225. \$153.

Q.—Explain to me why in this particular class of policy your actual surplus has fallen so short of your estimates, whereas in the other it was, if anything, above or at least equal to the estimates you made. A.—The earliest estimates that were made, were a little high, as I have explained, because we were calculating on receiving a higher rate of interest than we actually have received, and furthermore we were calculating upon a lapse ratio which was higher than has actually been experienced. That has a much greater effect as you can understand on a long term than on a short term policy.

Q.—Was it due to deducting larger reserves? You did deduct in later years on a basis of $3\frac{1}{2}$ per cent., whereas you had been deducting on another basis. A.—That did not affect the reserved dividend policies.

Q.—The lessening of comparative estimates was not influenced by that change. A.—Not by that, no.

Q.—I want to refer for a minute to the legislation which changed the basis of reserves and in which you, Mr. Macaulay, were concerned in Ottawa. You were opposed then to the legislation of 1899.

(Mr. Macaulay now answers.) A.—Yes.

Q.—And fought against it as we remember? A.—Yes.

Q.—Can you tell me anything about the inception of that legislation? A.—That is how it originated?

Q.—Yes? A.—Do you mean anything below the surface

Q.—Yes? A.—I don't know much of what was below the surface. I would not venture to express an opinion on that point.

Q.—I don't know whether you remember this statement, made by Mr. Robertson Macaulay, as a matter of fact? A.—Yes?

Q.—You don't know anything about that yourself? A.—No, personally I know nothing about the matter.

Q.—You do not altogether agree with the conclusion reached by Mr. Robertson Macaulay in that pamphlet, that $3\frac{1}{2}$ per cent. reserves are an unmitigated evil for policyholders? At least you have modified your views in regard to that? A.—My views have not changed at all, as I have explained. But changing circumstances mean that we have to readjust ourselves to those altered circumstances while retaining absolutely the same

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views as we then held as to what was wise and right at that time.

Q.—It was advocated in that pamphlet or letter you sent out, that for 15 years a gradual setting aside to meet the higher reserves should go on? A.—Yes.

Q.—You have consolidated that into six years? A.—Yes.

Q.—And for these reasons, that you found yourselves unable really to cope with the circumstances? A.—Oh no, we got it into six years simply because of the great prosperity of the company and the large profits it had made on its investments enabled us to complete in six years what we originally had intended to possibly extend over 15.

Q.—However, the fact remains that you have set aside your reserves on a $2\frac{1}{2}$ per cent. basis? A.—We have complied fully with the law.

Q.—Are the commissions paid to your agents in respect to participating and non-participating business the same? A.—No, we pay less on non-participating than we do on participating. But we pay exactly the same on quinquennial dividend policies as we do on deferred profit policies.

Q.—Has the fact of their getting a lower commission on non-participating business the effect of rather preventing the agents from soliciting that class of business? A.—I suppose it has some effect in that direction. It naturally would have.

Q.—What proportion of your business is non-participating? A.—About eight per cent., I think, from memory.

Q.—While you do not press for that particularly, do you instruct your agents in any way not to press for it? A.—We do nothing in the way of instructing the agents except that we do not look with equal favor upon without profits policies and the reducing of the commission somewhat is quite enough of a deterrent. The principal reason why we reduce the commissions on non-participating policies is, as I have already shown, that they as a rule have a heavy mortality and it is not as desirable a business as the other.

Q.—Is that the only reason why it is not as desirable a business from the standpoint of the management? A.—No, it is not the only reason. There is not as large a margin of loading and it does not assist in building up the surplus to the same extent.

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MR. KENT: I do not remember whether Mr. Shepley asked you what was the margin of loading on these policies?

MR. GEARY: Mr. Wood just answered that question, your Honor. They have adopted 20 per cent. plus a constant. That is in a statement, I think. 20 per cent. loading with a constant of \$3? A.—That is for with profits.

Q.—Is the loading of the non-profit policy the same less the constant?

A.—On the non-participating we adopted the exact rate which all the leading American Companies have adopted and for the sake of doing away with competition in rates. Those premiums are based upon the American table of mortality with $7\frac{1}{2}$ per cent. loading, and another $7\frac{1}{2}$ per cent. upon the life net premium. It is the American basis, not the same as our own, but we thought it was desirable, and in fact all the Canadian companies have practically come to the same basis of having just one set of non-participating premium practically over the continent.

Q.—Can you tell me that your non-participating business pays its way in the company? A.—It does.

Q.—So that given two policies of the same age and same premium, one participating and one non-participating, the difference between the premium is all applicable for profits. A.—I can, if you like, give an exact comparison between a with profit policy and a without profit policy, just how it works out in our own company, if you choose.

Q.—I would like that? A.—For example take a 20 payment life age 35 \$1,000.

Q.—I fancy it would be very good to have that made in the form of a statement. It would not cumber the record and would be before the Commission in the same way? A.—Yes, I can do that. I have it right here. The premiums we would charge are as follows: age 35, 20 payment life plan non-participating \$30.95. Participating \$36.95, a difference of exactly \$6. At the end of the first 5 years the profit on the basis at present in use by us would be \$5.22 per annum, reducing the net cost for the first five years to \$31.73. Still a little bit over the non-participating rate. \$31.73 as against \$30.95. By the second five years, however, the premium would be reduced to \$30.09 participating against \$30.95 non-participating, so that in the second five years the

participating policyholder would have an advantage to the extent of 86 cents per annum. The third five years the profits would reduce the premium to \$28.14 for the participating man, against \$30.95 for the non-participating man, so that the with profits man would have the advantage to the extent of about \$2.81 per annum; for the fourth five years he would have an advantage to the extent of \$5.11; and for the whole 20 years the participating man would have saved \$40 in premiums and then they would both have paid up policies, but the non-participating man would get no further profits while the participating man would continue to get profits for the rest of his life, estimated for the fifth 5 years \$43.15; sixth 5 years \$47.50. This is comparing on the exact basis of what we are doing now throughout.

Q.—Will you have such a statement prepared? A.—Yes. Showing that while at the start the without profit man gets a little cheaper insurance, in the end the with profits man does, and very much so.

MR. KENT: That would all depend on the company. Those results would not be attained by every company? A.—Perhaps not. If they did not get as good profits as we did it would not be.

Q.—If another company spent its profits otherwise the result might be quite different? A.—Oh yes, if the company did not get as good profits as the Sun Life the results would not be so good.

MR. GEARY: Have you yet a special rate for clericals? A.—No.

Q.—How long did you continue that? A.—We have discontinued that for a very long time.

Q.—Have you any other special rates? A.—We have special rates where we charge extra premiums, but no special rates whereby we give lower premiums to any class of persons. We had a plan for a while by which what we call the clergy class, in which any clergyman who would apply without being canvassed could get very cheap rates. We sent circulars to all the clergymen in Canada, Catholic and Protestant, every denomination, and got a mere bagatelle of answers. We thought if we offered very low rates to these intelligent people we would get business, but although we cut the rates right down we did not get business. We had to employ agents.

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Sun Life Assurance Co.

(Mr. T. B. Macaulay, Ex'd.)

MR. KENT: A sort of bargain counter business?

MR. GEARY: Do you ever give bargains in rates in special cases? A.—No.

Q.—Never give bargains in dividends? A.—No, we treat everybody on exactly the same basis.

Q.—There have been no cases in your memory where any insurer has got a preference? A.—No sir, we treat everybody on the same basis, no distinction.

Q.—In your report for 1905 you show an increase of 5,934 policies insuring \$9,000,000 odd. Were those all new policies or do you include in that bonus additions?

MR. WOOD: There would be less than \$100,000 anyway, a very small amount last year.

MR. MACAULAY: Your Honors, from what was said yesterday I gathered the impression that perhaps there might be a tendency to look upon our investments in some of these Illinois Traction securities as not being of the exact nature that a life insurance company should invest in. I am perfectly satisfied so far as the public and the commission are concerned, with the statement given before; but just for the sake of getting it on record I would like to put very briefly a summary of how these securities appeal to us and why we consider them of a class that any life insurance company should be proud to have. Take for example the bonds of the Danville, Urbana and Champagne railway; the first of the investments in the Illinois Traction companies. The actual earnings certified by the auditors, for 1902 of that company were \$136,700. That is the year before we took their bonds. After deducting all expenses and interest charges of every kind against their properties. Now, all that was required of additional interest to make good the new bonds that we took was \$54,000. The additional interest charge involved by the bonds we took was only \$54,000. So that there was \$136,700 already being earned the previous year to pay \$54,000, so that even if there was nothing else obtained from natural increase or from the building of the inter-urban railway, we already had a revenue that was two and a half times the additional interest charge. Furthermore in the circular of Mr. Christiansen, he went up there and brought I don't just know how many persons with him to go over the whole of the properties,

and his estimates of the replacement value of that property, including the two terminal properties was \$4,000,000, or about a million and a half more than the total amount of the bonds against all the properties. So that not only had we the revenue there, but there was a very big margin in actual replacement value. So I want to make very clear that those first bonds were of a character that any life insurance company in the world might be proud to take. Then taking the next one, the Decatur Railway and Light. It had a surplus in 1903 of \$62,200 over all its previous charges of every kind and sort whatsoever. All that was required to pay the interest upon the new bonds that we took was \$30,000, so that it already had twice the interest being actually earned that was required and had in addition the guarantee of all the surplus from the Danville, Urbana and Champagne properties. And the combined surplus of the Danville, Urbana & Champagne properties and the Decatur properties for that year were about \$162,000 for 1903. Now, take the next property that we took bonds of; the Illinois Central Traction Company; that was a new proposition but we had first mortgage bonds and the guarantee of the Illinois Traction Company which had its surplus earnings of \$162,000. Now, 5 per cent. upon \$1,300,000 only called for \$65,000 of more interest; so that if the inter-urban railway did not earn a cent, there was \$162,000 of surplus revenue already there to pay \$65,000; so that it was absolutely safe even if the new line did not earn a cent; but as a matter of fact it did earn the entire year's interest charges in the first eight months operation of the road. Now, in regard to the value of the guarantee of the Illinois Traction Company on bonds. It has surplus over all the interest charges of \$700,000. The market value of its preferred and common stocks is about \$6,500,000. Those stocks are owned by over 700 shareholders. Very largely in Canada. In the next place, although the first of the stocks of the Illinois Traction Company, preferred stock, was watered; afterwards there was a lot of actual cash put into it. There was about \$1,000,000 of actual hard cash put in by selling the preferred stock at 87½, 95 and 100, so that it is not all water; it was at the start; the first issue; but afterwards there was a million of hard cash put in and in addition to that another

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(D. Burke, Ex'd.)

million of surplus earnings put in, so that already there has been \$2,000,000 or actual hard cash turned into that property and from \$500,000 to \$600,000 is being put in. And it will be \$100,000 probably next year, so that the surplus earnings are being turned back into improvements all along. Then two other little points. As to municipal ownership. Really we do not care whether municipal ownership comes or not. It cannot come in the United States at any rate, without full compensation, and not merely compensation for actual cost but for the road as a running concern, and if they pay that we are satisfied. Municipal ownership on such terms as that would have no terrors for us at all. We would be sure to get a very large profit. Then in regard to control. While I emphasize the fact that control is very desirable, I mean that it is desirable from the standpoint of the prosperity of the company but I do not mean that we ourselves must always control. If we are associated with people like the Bank of Montreal or other first-class people we are quite satisfied. We don't need to control it as long as people in whom we have entire confidence control it. And another point is this; our experience shows—has proved to us conclusively that if we get first mortgage bonds, or mortgage bonds, whether first mortgage or not, that we are safe in almost every instance, whether we have or have not control. A man may make trouble—bad management may make trouble, by which the stock may not become as valuable and it is not safe to take unsecured bonds or preferred or common stock unless they have been paying dividends or unless you have the control, but if you have mortgage bonds you may not make much out of your bonus stock but you are sure to be safe. I think our experience with the Appleyard properties is very emphatic. The bonds we have there were all mortgage bonds. There were mortgage bonds on those properties and they went through a foreclosure and those bonds were not even disturbed. The properties were sold subject to the mortgage bonds. Now, if there is anything that would go far towards proving that mortgage bonds—I don't mean necessarily first mortgage bonds, but mortgage bonds of any kind are good and should not be disturbed, then that Appleyard experience, I think, proves it. I cannot impose upon your Honors by going into this question of what I would

recommend in regard to investing powers, but I will say this much that I do feel very strongly that any restrictions in regard to mortgage bonds would be very unwise. I think a reasonable restriction in regard to unsecured bonds—that bonds should only be taken of a company that has say earned and paid 4 per cent. for two years, and in like manner that preferred stocks should only be taken of a company that has earned and paid dividends of 4 per cent. for two years, common stock something of the same kind—I do not object to restrictions of that kind, but any restrictions on bonds carrying mortgage would, I think, be highly unwise. I thank you very much, gentlemen, for your attention.

MR. SHEPLEY: Mr. Macaulay has been good enough to give me some of his views, in writing, on this subject and I have told him that the views he has given me in writing will be treated just the same as if stated in the witness box and it will give us a great deal of pleasure to have those views before us. I have only one question to ask, Mr. Macaulay: do you think it was of you that the good book spoke when it said that Ephraim was joined to his idols? You will come back to the Traction. Then your Honors, of course, pro forma the examination into the affairs of the Sun Life is still open, but subject to some emergency I do not propose to carry the examination any further.

JUDGE MAC TAVISH: Then tomorrow morning, what will be ready?

MR. TILLEY: The Royal Victoria will be ready tomorrow morning.

JUDGE MAC TAVISH: Shall we meet at 10 o'clock instead of half-past ten, as it is the last day of the week? We will adjourn until 10 o'clock tomorrow morning.

(At 5 p.m. on Thursday, 25th October, adjourned to 10 a.m. on Friday, 26th October, 1906.)

NINETY-SECOND DAY.

MORNING SESSION.

Montreal, October 26th, 1906.

ROYAL VICTORIA LIFE INSURANCE COMPANY.

MR. TILLEY: I will commence with the Royal Victoria Life Insurance Company this morning and I will call Mr. Burke.

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DAVID BURKE, Sworn. Examined by

MR. TILLEY: Q.—What position do you occupy in the Royal Victoria Insurance Company? A.—I am the general manager and a member of the Board of Directors.

Q.—And have you occupied this position ever since the company was organized? A.—Yes.

Q.—Did you organize the company? A.—I did.

Q.—That was in the year 1897? A.—Yes.

Q.—You got a charter? A.—Yes.

Q.—Prior to 1897 what business had you been engaged in? A.—Life insurance since 1869.

Q.—For what company prior to 1897? A.—The New York Life Insurance Company.

Q.—In what position in connection with that company? A.—I was formerly manager in Ontario, and from 1883 to 1897 general manager for Canada, also a trustee.

Q.—Was the idea of organizing this company entirely your own, or was it suggested by any others who afterwards became incorporators? A.—The idea emanated entirely with myself.

Q.—You thought at that time there was room for another company, did you? A.—I did.

Q.—Then with what members of the company or persons who became members on the incorporation, did you discuss the matter principally? A.—With the late Mr. A. F. Gault, with Mr. James Crathern, the president, with Senator Forget, and Senator McKay particularly.

Q.—Those were the ones that you sought to interest in the first place? A.—Yes.

Q.—Can you say what inducements you were at that time able to hold out to these gentlemen to bring them into this company? A.—Well, my experience, and the large and promising future of the country, and the fact that there were not so many companies, Canadian companies, as later, there seemed to be room for a company, especially in this province.

Q.—In 1897—that was prior to the rush for charters that took place later on? A.—Yes.

Q.—And you thought at that time there would be a good investment derived from taking stock in a new insurance company? A.—Yes.

Q.—Was that the only inducement you were able to hold out to them, or were there any other inducements

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of a personal character? A.—None whatever.

Q.—Not to any of them? A.—None.

Q.—Did you discuss with any of them the advantages that might accrue to them as distinct from other shareholders who would just own stock in the company? A.—No.

Q.—By way of a company to loan to any of these parties? A.—Nothing of the kind.

Q.—That was never discussed at all? A.—Never discussed.

Q.—Well, then, have you a copy of the act here in pamphlet form? A.—Yes. Here it is.

Q.—Have you other copies of this? A.—Yes.

MR. TILLEY: I will put in a copy of the charter which will be exhibit 645.

Q.—Will you just say, Mr. Burke, who the parties were that became the incorporators along with yourself? A.—Andrew Frederick Gault and James Crathern, Montreal, Sir Joseph Adolphe Chapleau, Quebec. Hon. James O'Brien, Thomas G. Roddick, Robert McKay, Jonathan Hodgson, Hon. L. J. Forget, Samuel Findley, and John Cassile.

Q.—And yourself? A.—Yes.

Q.—You formed the first members of the company? A.—Yes.

Q.—Then just to have it on the record in the same place, would you give me a list of the present directors of the company? A.—James Crathern, president—

JUDGE MAC TAVISH: Q.—Have deaths occurred? A.—Some deaths have occurred. James Crathern, president; Honorable Robert McKay, Hon. L. J. Forget, Vice-presidents; H. N. Bate, Ottawa; Jonathan Hodgson, of Montreal; Doctor T. G. Roddick, Montreal; Charles F. Smith, Montreal; George Caverhill, of Montreal; Gaspard Lemoine, Quebec.

MR. TILLEY: Q.—Does that complete it? A.—I think so—and David Morrice, of Montreal.

Q.—And the persons who were original directors so far as they are in the list of 1906 have continued to be directors from the organization of the company down to date? A.—Yes.

Q.—They have not dropped out and been re-appointed? A.—No, except by death.

Q.—Besides the Board of Directors what committees have you? A.—Only one, the executive committee.

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Q.—What are the functions of that committee? A.—They are supposed to meet once every month, and the Boards meets every three months.

Q.—That is covered is it, by by-law No. 7? A.—Yes.

Q.—And that by-law governing the duties of executive was amended in 1903 at the Board meeting of January 12th, and approved at the shareholders' Meeting on March 25th, 1903? A.—Yes.

Q.—I will read that clause and that will describe their duties. The clause "The Board shall from among their number appoint a committee who, together with the president, vice presidents, and general manager of the company shall constitute the executive committee, five of such committee shall be a quorum. The executive committee shall meet at the head office at least once in each month, and shall advise with respect to expenditures not specifically authorized by the Board and the investments of the fund of the company. It shall be the duty of the officers to consult and advise with the committee on all the important financial affairs and other business of the company. The executive committee shall deal with all such matters as will from time to time be delegated to it from the Board. It shall report to the Board at the regular quarterly meeting." That is the by-law that governs the executive committee? A.—Yes.

Q.—Would you give us the names of the persons who now form the executive committee? A.—James Crathern, Hon. L. J. Forget, Hon. Robert Mackay, Jonathan Hodgson, Gaspard Lemoine, David Morrice, Doctor T. G. Roddick, Charles F. Smith, and David Burke.

Q.—And have these been the members since the committee was appointed? A.—The committee is re-appointed after each annual meeting.

Q.—Is the personnel changed much? A.—Not much, excepting where deaths have occurred. Our executive committee is composed of the Montreal members of the Board and one member of the Board living in Quebec, for convenience.

Q.—So that is the rule, that all Montreal members of the directorate are on the executive committee and then one member in Quebec? A.—Yes.

Q.—Then just to complete that part of the subject, here, have you any other Boards called Local Boards? A.—We had when the company was first started.

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Q.—Have you now? A.—They have not been kept up.

Q.—Well now, what was the nature of the local board that you had at the commencement of your business? A.—They were intended to be purely advisory in case of necessity.

Q.—Were they provincial boards A.—At larger centres of population they would probably be considered provincial boards.

Q.—They were more for the purpose of interesting prominent local persons in the company? A.—Yes, and as a reference, in case any one should desire to enquire as to the company, or the men that were behind it.

Q.—What benefits could they give the company in the way of assisting it in its business? A.—In some cases material benefit where they took an interest in the company, being stockholders.

Q.—Did they have regular meetings? A.—Not very frequently, a couple of times a year probably.

Q.—Were they paid fees? A.—We paid them \$5.00 for each meeting—\$5.00 a piece for each meeting.

Q.—And when were they discontinued? A.—Well they have not been discontinued. The Boards are supposed to still exist, but we have not called meetings nor required to consult them as a body for the last two or three years.

Q.—Have you been paying them any during that time? A.—None whatever.

Q.—They simply have not been called in? A.—No.

Q.—How many members are there in existence at the present time? A.—One in Winnipeg, and I may say that our Toronto Board still exists, but we have not called them together, for two or three years.

Q.—Any others besides Winnipeg and Toronto? A.—There is a board in Halifax, but two of the members I think are dead, so there is only one remaining.

Q.—You do not regard these boards as being any factor in your organization at the present time? A.—Not in administration.

Q.—And it is not your intention to revive them or to continue that feature? A.—That I could hardly say. It might be found necessary.

Q.—Are these what you call in the minutes the Boards of local reference? A.—Boards of local reference would be the term.

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Q.—And they were brought into existence on February 10th 1898? A.—I think so.

Q.—On February 10th it was referred to the next meeting and then on March 10th the resolution was passed appointing these local boards, the duties seem to be to confer and advise as to the best means of expanding the business of the company in the territory embraced within the jurisdiction and also in any other matters pertaining to the company's business, and interest, which may be submitted to them for advice by the Board of Directors or the general managers? A.—Yes.

Q.—Did they keep minutes? A.—They might have kept memoranda I do not know of any particular minutes.

Q.—The resolution I see provides that minutes of all meetings of local boards shall be kept and certified copies sent to the head office. Was that done? A.—In some cases probably it was.

Q.—But it was not,— A.—Unless it was something important I do not think it was asked for or required.

Q.—Then you have no book now that contains a record of the acts of the local Boards? A.—None.

Q.—And it simply falls into disuse as you have said? A.—Yes.

Q.—Do you continue to advertise them? A.—Not recently.

Q.—When did you cease doing so? A.—Probably three years ago or four years ago.

Q.—Can you say why you did that? A.—No, excepting that in our prospectus, we probably reduced the size of our prospectus, and put our general board instead of the local boards.

Q.—In your prospectus? A.—Yes.

Q.—Then the capital stock authorized by your Act of incorporation was a million dollars? A.—Yes.

Q.—And that is now all subscribed? A.—Yes.

Q.—And a call of 20 per cent., being the initial call, has been paid? A.—Yes.

Q.—No premium was paid on your stock? A.—None.

Q.—I suppose at that time that method of bringing surplus funds into the company which would not be treated as capital, had not been heard of? A.—No, it was not in use.

Q.—Did you know at the time you organized the company that there would be necessarily an impairment of capital? A.—I did.

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Q.—Did you form any opinion as to how long that impairment would exist? A.—I calculated on the full reserves being restored under all plans within ten years. At that time the basis of reserve valuation was not so stringent as now.

Q.—You mean the interest rate was higher? A.—The interest rate was higher.

Q.—At that time it was four and a half per cent? A.—Yes.

Q.—And in any other respect, do you say the reserve requirement was not so stringent? A.—No. I think the chief difference was in the rate of interest employed. Another reason was that the cost of the business was not so great then as now.

Q.—The cost of obtaining business? A.—Yes.

Q.—The commissions that you had to pay? A.—Yes, the commissions and other incidental expenses were not so great.

Q.—These were two factors that would account for some of the disappointment to you in the length of time it would take to get back your impairment? A.—Yes, very material factors.

Q.—Are there any other factors, or does that exhaust them all? A.—No, it does not exhaust them all. The impairment of itself I consider has been a factor of at least 10 per cent. in the cost of obtaining business.

Q.—You mean now that the fact that you had to show an impairment has increased the cost of getting business to you? A.—Yes, at least 10 per cent.

Q.—And thereby increased the burden and deferred the time when the impairment would be made good? A.—Yes, and the number of companies—

Q.—Of course that was a feature that was present to your mind at the time, that showing an impairment would cause you to pay more for your business? A.—Yes, but the competition on account of the number of companies in business that have come in the field since then, has added very much to the cost of getting the business.

Q.—That comes back to the other point you have mentioned? A.—The two together.

Q.—Does that exhaust all the matters that are present in your mind as accounting for the more deferred date for getting your impairment made good? A.—There is another factor; our mortality has been somewhat larger than we anticipated.

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Q.—We will come to that later. Is there any other factor? A.—There is no other material factor, excepting that the impairment of itself has reduced our interest earnings on our capital.

Q.—Why? A.—Because the capital has been drawn upon to maintain the reserve on a higher standard.

Q.—Of course you had the funds, you had the same funds in your hand. You just had to treat it as a reserve? A.—No, our impairment is a depletion of actual funds for investment.

Q.—Why is that? A.—Because if we had maintained our paid up capital intact, we would have had the difference between that and our remaining capital earning interest.

Q.—You say that the result has been to take actual moneys from the company which it would have had for the purpose of investment? A.—True.

Q.—By reason of the higher expenditure of business? A.—Yes.

Q.—Otherwise than in some outgoing such as that, you have had the moneys in your possession, but they have had to be treated as a liability and called reserve; they have been there to invest though? A.—Well, our capital is less for investment than it was at the start.

Q.—The moneys you had in hand to invest by reason of the matters you have spoken of are less than you would have had, or would have expected to have had? A.—Yes.

Q.—What length of time did you anticipate would be required when you were promoting the company and endeavoring to interest capital? A.—I considered that it would take ten years.

Q.—That is if the company was incorporated in 1897 and carried on business until 1907, that then your impairment would be made good? A.—Would be made good under ordinary conditions.

Q.—Did you so advise persons who were investing or proposing to invest money? A.—Where the question came up—

Q.—That was not a matter raised by you? A.—It was not a matter raised by me, but where the question came up in every case I pointed out that it would take some years before there would be a dividend paid.

Q.—Can you say from memory that you at any time spoke of ten years as being the probable length of time? A.—I do not know as I could mention the individual case, but that was the trend of my explanation.

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Q.—That was what was in your mind at any rate? A.—Yes.

Q.—And no longer period? A.—I did not anticipate any longer period.

Q.—Did you hope that it might be shorter? A.—I did.

Q.—How short a time did you feel you might require in your most sanguine moment? A.—Well I never felt safe in naming any definite period.

Q.—Without naming a period I would like to know just how quickly you thought would be able to get the impairment made good under favorable conditions? A.—Well under very favorable conditions it might have good in two or three years.

Q.—Was there not a period of about three years more in your mind at that time, than ten years? A.—No.

Q.—Did you issue any printed prospectus when you were selling your stock? A.—We did.

Q.—Have you a copy of that? A.—I am not sure if I have a copy. I think I have a copy in the office. Probably we might find a copy, but I made no reference to—

Q.—Probably you can telephone or send for it? A.—Yes I will.

Q.—Then leaving that for the present, you were required under the Act to have a certain percentage of your stock subscribed. You were required to have \$350,000 of stock subscribed before you could call your first meeting? A.—Yes.

Q.—And on that \$350,000 a sum of \$70,000 was required to be paid in? A.—Yes.

Q.—And that would be paid in before the meeting was held? Was that done? A.—Yes.

Q.—Paid in to a chartered bank? A.—It was.

Q.—By moneys received from shareholders? A.—Yes.

Q.—Or by discounting of notes? A.—Never discounted a note.

Q.—So that there was no accommodation received from the bank in connection with the moneys that were there to your credit? A.—None whatever.

Q.—It was moneys received by way of cash payment from the shareholders made to the Company on account of their stock? A.—Yes. I have some notes here on the subject. The first meeting of the Provisional directors held June 17th, 1897, a call of 20 per cent. was made on subscribed capital on that date. The second meeting of the provisional directors held July 21st, 1897, and a copy of the by-laws

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was submitted and authority given to purchase \$56,300 of stock, and the first meeting of shareholders was held August 4th, and the Chairman reported \$500,000 of the stock subscribed and \$90,700 paid in, and the by-laws were then approved.

Q.—You say that that section was literally complied with? A.—Fully complied with.

Q.—And so would the section No. 6 be complied with, which required you to have \$70,000 paid in, and each shareholder to have paid in not less than 10 per cent. on the amount subscribed before the Company could carry on business? A.—Yes.

Q.—That was true with respect to each shareholder, was it? A.—So far as I remember.

Q.—And so far as you remember now, it was paid in by each shareholder in cash? A.—In cash.

Q.—Not by the giving of a promissory note? A.—None whatever.

Q.—Did you take notes for payments on stock at all? A.—No, I do not know of a case.

Q.—Has there been at any time a control of the stock of your company in the hands of any one person or any group of persons who are brought together by any common interest in your company? A.—No.

Q.—Do the directors control it? A.—No.

Q.—There is no group of persons that exercise or could exercise control of your company? A.—None whatever.

Q.—The stock is scattered just as appears in your share list? A.—Scattered among about 300 subscribers.

Q.—Holding in small lots? A.—I think the directors hold about \$130,000,—the directors personally and their immediate connections.

Q.—Do you get any proxies in favor of directors for the annual meetings? A.—We did at first, but we never asked for them since.

Q.—Is this the form that you used at that time? A.—Yes. (Exhibit 646).

Q.—When you sent out this form to be completed by the shareholder, that would be just before the annual meeting? A.—Before the first stockholders meeting if I remember correctly.

Q.—And again before the second stockholders meeting? A.—Only to those who had subscribed to the later issue of stock.

Q.—Having once obtained the proxy signed, from a shareholder, you would treat that as being in force

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until it was withdrawn I suppose? A.—Yes.

Q.—And then new shareholders would receive forms to be completed for the first annual meeting? A.—Not where the stock had been transferred, only in the first subscription.

Q.—Only in the early subscription? A.—Yes.

Q.—Did you fill in the name of any person here as the proxy? A.—In some cases I filled in the name of Mr. A. F. Gault, Mr. James Grathern, and my own name.

Q.—You say you did that in some cases? A.—In fact I want to correct it. I do not remember having filled in the names, but suggested it to the shareholder.

Q.—By letter probably? A.—Yes, but left it to their option.

Q.—And then at the time you would send out the form to be completed you would enclose a letter? A.—Yes.

Q.—And suggest these three names? A.—If they liked.

Q.—But these names were never filled in before it reached them? A.—Not to my remembrance, because a number of them came back with a single director, or perhaps another stockholder.

Q.—Can you say how many proxies you have now? A.—The proxies in force represent about \$400,000 of the stock.

Q.—That would be in addition to the directors stock, because they would not sign proxies? A.—Some of them did—at least they were not at the meeting.

Q.—Taking the \$400,000 of proxies, how many of those are in your favor, either alone or with others? A.—Not more than two or three cases only. The majority are Mr. Gault, Mr. Grathern and my own.

Q.—Is it fair to say that substantially the whole proxy would be represented by yourself or Mr. Gault or Mr. Grathern under these proxies? A.—Only about two-thirds of the proxies would be in Mr. Gault and Mr. Crathern and my name.

Q.—How would the other be? A.—Some of them are payable to the individual directors.

Q.—In favor of, you mean, not payable? A.—Yes, in favor of.

Q.—Some other director? A.—Yes.

Q.—Well then, the directors I suppose to-day, with their own voting power, and the voting power that is given to them by these proxies control the situation, unless the proxies

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are withdrawn? A.—I do not think they would control the majority of the stock. They might at the meeting.

Q.—But the vote? A.—They might at the meeting.

Q.—You think they would? A.—Yes, I think probably they would.

Q.—Then what part do the policyholders take in your annual meeting, if any? A.—None.

Q.—I see that there is provision in your Act under section 16 whereby the company may agree to give to holders of participating policies the right to attend and vote in person at all general meetings of the company? A.—Yes.

Q.—And if the company so determines, the participating policyholders shall be members and entitled to attend and vote in person, except at the meetings called to increase the capital stock, and then it is expressly stipulated that they shall not be entitled to vote either in confirmation or against the confirmation of any by-law to increase the stock, and each participating policyholder for a sum not less than \$1,000 has a vote for each \$1,000? A.—Yes.

Q.—That is if the company so determines? A.—Yes.

Q.—You say the company has never pursuant to that section passed any by-law or resolution, giving the policyholders a right to vote? A.—No.

Q.—Has the matter ever been discussed? A.—No.

Q.—Never came up for consideration at all? A.—No.

Q.—Do you remember why that clause was put in the Act if it was not then thought it might be beneficial to have them voting? A.—I thought it might be a matter for consideration when the company would grow larger, and by having it in the original charter it would avoid the necessity of going to parliament for any amendment.

Q.—But you had the opinion that for a young company, it was better that the policyholders should not vote? A.—Yes, because in a younger company the stockholders interest are paramount.

Q.—You thought that possibly when the policyholders interest would become larger, or as large as the shareholders interest, that then they should be given some franchise? A.—I would be in favor of that, a limited franchise.

Q.—Was it your idea that for a young company it was better that there should be the control, whether

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by proxy vote or in any other way, that there should be the control by the directors and the persons who had organized the company? A.—Yes.

Q.—I suppose it is fair to say that you organized the company with the intention of becoming its manager? A.—I did.

Q.—And you intended that in the early years of the company at any rate, that that position should be reasonably assured? A.—Yes.

Q.—Have you a contract with the company? A.—No contract, excepting by resolution of the Board.

Q.—Where is that resolution? A.—Minute No. 5 of the meeting of August 11th, 1897.

Q.—Would you read it? A.—My notes are an abbreviation.

Q.—Well if it correctly states the minute, all right. The minute reads "The following head office salaries were then fixed by the Board as follows: Medical director \$600, per annum, from August 1897; Treasurer and Acting Secretary Mr. Hodgson, \$1,800, from August 1st 1897 with an allowance of \$300, for services rendered up to that date. General Manager David Burke, \$5,000, per annum, salary to begin May 1st, 1897. "Is that all the reference there is to your salary? A.—That is all the reference.

Q.—And there was no arrangement whereby you were to have a term of service for the company? A.—None.

Q.—But in the way that you have said, you know that the directors were in control of the situation? A.—Oh, I left it to the Board of Directors.

Q.—That would be the fact, that your arrangement could be made completely with the Board of Directors at any time, as they fully controlled the situation? A.—Yes.

Q.—Then has your salary remained at \$5,000. down to this date? A.—It remains the same to-day.

Q.—And the medical director the same? A.—The same.

Q.—And the treasurer and acting secretary? A.—The treasurer and acting secretary then appointed, severed his connection with us about three years ago.

Q.—In the year 1902 apparently? A.—Yes.

Q.—Down to that time the salary remained the same \$1,800? A.—Yes.

Q.—And he was paid \$900, in the year 1902, indicating he was there six months? A.—Yes.

Q.—Then Mr. Hole was appointed treasurer at \$1,500? A.—Yes.

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Q.—And the next year \$1,600? A.—Yes.

Q.—And last year \$1,700? A.—And it remains the same \$1,700.

Q.—Then just to complete that phase of it there, what remuneration did the directors receive? A.—They received I think for four years, dating four years back \$2,000 among them.

Q.—And that is all the remuneration paid to the president and the directors? A.—Two years ago there was an extra \$200 incurred.

Q.—That is 1905? A.—Yes. They received none for last year.

Q.—That is to say 1905 would be payable with respect to the year 1904? A.—Yes.

Q.—It is voted at the beginning of each year for the previous years' services, is that is? A.—I think so.

Q.—Then for the year 1905, what has been voted in this year? A.—Nothing.

Q.—Has it been decided not to vote anything? A.—The question has not come up.

Q.—Has there not been time for it to come up? A.—About time, but it has not come up in any form.

Q.—Has the company any head office premises belonging to it? A.—None.

Q.—It rents the head office accommodation? A.—Yes.

Q.—Then in 1897 the amount of the subscribed capital at the end of the year, according to your return, was \$683,100 and the amount paid up \$128,620? A.—Yes.

Q.—I should like to put in this statement prepared showing the progress of the company (Exhibit 647) and I would like you to verify it so far as you can. That shows the subscribed capital and the paid up capital for 1897 and it indicates the income for both capital and on premium account—that is the insurance premiums I mean—it gives the disbursements, sets out the assets and liabilities and the results, and impairment at the end—I suppose that was a broken year of business? A.—Yes.

Q.—Of \$7,919.42, is that correct? A.—I think so.

Q.—And the amount of insurance in force at the end of that broken year was \$242,500? A.—Yes.

Q.—Then in 1898 the whole of the capital stock had been subscribed, and the full twenty per cent. had been paid in? A.—Yes.

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Q.—Then at the end of that year the impairment had increased to \$27,164.10? A.—That seems correct.

Q.—In the list of assets appears the item sundries \$2,970. Can you tell me what that represents? That is in the year 1898? A.—Probably office furniture, as the item does not appear.

Q.—The item does not appear here under that name? A.—No.

Q.—It does appear in the next year? A.—Yes.

Q.—So that I suppose that is what the item would be? A.—Yes.

Q.—What has been your action with respect to the item of office furniture in your account? Do you take it in at its full value—not full value, but at the full amount paid for it? A.—We take it in at the full amount paid for it, and write off at the end of each year.

Q.—How much? A.—Five to ten per cent.

Q.—Increasing the amount each year by additions to the office furniture, and decreasing it at the end of the year by five to ten per cent. off the whole? A.—Yes.

Q.—I suppose if it were not for the keeping up of reserves, probably the item furniture would not appear in your balance sheet at all? A.—To some extent it is worth something.

Q.—But it is probably not as an asset worth the amount that it is taken in at if you had to dispose of it? A.—As a general rule that would be correct.

Q.—Then outstanding and deferred premiums in that year amounted to \$14,101.99. That would be premiums that were payable but had not been paid in? A.—Premiums outstanding in the hands of the agents for collections, under new policies issued, and renewal premiums. As there is 30 days grace on all premium, a premium due in December is not paid till January. Consequently they have to be charged in the account.

Q.—Then they would be premiums that should be accounted for in the year 1898 but not actually come in hand until a later date—had not come in hand till the end of that year? A.—Came in the next year.

Q.—I suppose that that item might include a substantial amount of premium income in respect to policies that would always be treated as not taken? A.—A certain proportion afterwards.

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Q.—Let me understand what that means. If you write considerable business, towards the end of any year, and issue the policy without having been paid any premium, do you at once show that policy on your books? A.—We do.

Q.—Before anything has been paid at all? A.—Yes.

Q.—Possibly before the agent has delivered it to the insured? A.—We enter it up at the end of the month.

Q.—The month in which you write it? A.—Yes.

Q.—That is to say if an agent sends in an application for the policy you write out the policy and sign it, and I suppose the policy bears a number? A.—Yes.

Q.—And the moment it is issued in that way and has taken up that number, you keep that as an issued policy? A.—Yes.

Q.—And if the premium is not received in that year you treat that as an outstanding premium? A.—Yes, if it is still outstanding, if it is not paid in that year.

Q.—Then that might amount to a considerable item if there was much business written in the month of December, might it not? A.—Yes, it is certain to do so, and repeated each year.

Q.—It would show a volume of business that was not really justified I suppose if many of these policies came back? A.—The policies of the year closed would be recalled if not paid for early in the following year, perhaps in January or February. They would not appear the second time.

Q.—Would that apply to policies issued in the month of November, do you think, or just December? A.—It might.

Q.—A few in January? A.—Yes.

Q.—The bulk in December? A.—Yes.

Q.—Did you offer any inducements to your agents to get in an extra amount of assurance in the month of December in each year? A.—We have done so on two or three occasions, offering a bonus commission.

Q.—That is for the month of December business? A.—Generally for the month, perhaps including November, sometimes October, making a little competition.

Q.—Usually it would extend to the end of December, would it not? A.—It will close with December.

Q.—And the only question in your mind is whether it covered a period before December? A.—We generally

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make an offer like that to cover two or three months, not simply for one month.

Q.—You send out a regular form of offer each year? A.—No, we do not.

Q.—Is this one which you sent out in 1901? A.—Yes.

Q.—Can you say whether the ones sent out from 1902 down to 1905 were substantially the same as that? A.—The difference, if I remember correctly, in two or three other cases where we gave a bonus commission the amount was not so large, the amount offered was not so large, reduced amounts.

Q.—Have you on any occasion offered a larger amount than is shown in this circular? A.—No, in no instances.

Q.—And the only difference probably in the other years would be either that the amounts were similar, or that the term during which the bonus could be earned might be extended for a month or possibly two months prior to December? A.—Yes. (Exhibit 648.)

Q.—This is the circular dated September 25th, 1901, as follows: "Confidential. To the agent of this company: (Reads circular).

MR. LANGMUIR: Q.—What was the minimum there?

MR. TILLEY: The minimum was \$5,000.

Q.—Have you sent out this circular, or a somewhat similar circular, every year since the company has been formed? A.—We have followed the rule, I think, in nearly every year. I am not quite positive in what year, but in no case did we pay as large a bonus, or offer as large a bonus as in that case.

Q.—Can you say what the bonuses you have paid each year would amount to in the aggregate? A.—I might refer to that, that the extra cost on that business was only five and a half per cent. on the premiums.

Q.—That is, it resulted you say in an extra commission to the agents of five and a half per cent.? A.—Extra remuneration.

Q.—If you were to put it as commission it would be just an extra five and a half? A.—Yes.

Q.—Are you speaking now with reference to 1901 particularly? A.—In that particular year.

Q.—Can you say how the result was in other years? A.—Less.

Q.—That is the largest percentage? A.—The largest percentage in any case

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Q.—Then besides bonuses offered in that method, have you offered agents bonuses in any other way? A.—No, that has been a principle followed in every case.

Q.—Have you offered agents bonuses depending upon the amount of insurance written, or let me put it this way; is the commission that any agent is to receive from your company dependent upon his writing a certain amount of business? A.—Sometimes we add a slight increase to the commission on the business of the year, if the agent secures it.

Q.—That is, you make something extra for him on the whole business, is that so? A.—In some cases.

Q.—Provided he brings in a certain amount of business during the year? A.—Yes. We protect ourselves by starting the commission rate reasonably low, and making the total he could earn our maximum.

Q.—Is that a uniform condition in your contracts with your agents? A.—Oh no. It depends on the territory.

Q.—Is it made with a certain class of agents? A.—A certain class of men who devote their chief time to the business.

Q.—You do not say who devote their whole time? A.—Yes, we would include that.

Q.—And others who devote a considerable portion of their time? A.—Yes, if they have got a good district and are competent men to give us a certain amount of business.

Q.—Take the contract that gives the largest bonus for that sort of thing, and tell me what it means to the company? A.—It might mean a maximum with a bonus added of 75 per cent. the first year on certain plans.

Q.—That is the percentage of commission would be about 75 per cent.? A.—Yes.

Q.—Can you say that you have not paid any agent more than 75 per cent. on the most favorable plan of insurance for himself? A.—I do not think we have exceeded in any case 75 per cent., even with the bonus added.

Q.—Even with the December bonus added? A.—We might increase it a half per cent. We have made our contracts on 70 per cent. graded, and on that December bonus the business cost us five and a half per cent., so that probably that would be the largest. The agent who did the largest business perhaps did not get as much as some of the smaller agents.

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Q.—Have you described now every method you have adopted other than the ordinary method of paying the agent a regular commission in order to get the agent to bring in a larger volume of business? A.—I have.

Q.—Have you had some plan whereby an agent is given a commission, an extra bonus, if he gets subagents who bring in five thousand dollars business in the year? A.—That is done in a general agency, where the general agent has control of the district. He has the privilege of getting the subagents and paying them.

Q.—Who pays the sub-agent in that case? The company direct? A.—No, he does.

Q.—You give him a commission on all insurance coming in from his district? A.—We consider it all as his business.

Q.—And he has the privilege of having persons work under him? A.—Yes.

Q.—And paying them some proportion of his commission? A.—Yes.

Q.—What is the nature of the arrangement you make with these district agents with regard to the employment of sub-agents. Do you give him a bonus for getting a certain number of sub-agents? A.—No.

Q.—What do you do? A.—The only benefit he receives is the difference between his commission—

Q.—And the commission he pays out? A.—And the commission he pays out. I think that has been our general practice. I have no recollection of any special bonus. I do not think we have done so in any case.

Q.—Now let us see. Here is a copy of the letter you sent in your returns of January 7th, 1904, and it is issued to one of your agents, but we will not mention the name. "The company has decided to offer some of our agents a bonus." (Reads.) Was that letter sent out to many agents? A.—Some half a dozen. It is the only case—

Q.—Had you that in mind when you were giving your evidence? A.—Well, a moment afterwards I remember that. It was something we were trying on; not in one case did the general agent succeed in claiming the offer.

Q.—Just let us see what it was you were trying on? What was the plan that you had? A.—The plan we had in view was to make the agent organize his territory better, and get new agents in districts where business could be produced and save the head office

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the cost of sending men into that territory to find agents.

Q.—Was this in order to induce the agent to get regular sub-agents working for him? A.—Yes.

Q.—Would you call a man who brought in \$5,000 in a whole year an agent at all? A.—We would call him an agent if he was under contract.

Q.—Does that not seem to indicate that a person who gets hold of one decent policy, or probably two smaller policies, is to be regarded as an agent to get this commission? Is that not practically an inducement to get this man to rebate a bit? A.—No, a contract is made with every agent.

Q.—Does he make a contract with every agent? A.—Yes, he makes a contract with every agent, and the head office makes a contract with every agent appointed.

Q.—Would the agent, in order to get this offer, have to bring in men who would sign separate contracts with you with respect to \$5,000 of business each? A.—Yes.

Q.—And you would go through the form of signing contracts with them? A.—In every case.

Q.—That \$5,000 is not a large amount of business for an agent to write in a year? A.—In certain districts it would be a fair business.

Q.—To get \$5,000? A.—Yes.

Q.—What districts? A.—In a small town there might be a dozen agents, and if each did \$5,000 of business it would represent a good business.

Q.—How many agents? A.—There would be a dozen companies represented in the district, and if a local agent does \$5,000 it is considered a good business. It depends altogether on the district.

Q.—You have in your office contracts with all these local small agents? A.—Every man who wants to be an agent must make an application and supply a recommendation.

Q.—In 1904 you got a great many agents appointed I suppose in the attempts by district agents to get the number up to ten. They might get it up to eight and still not get the bonus? A.—In not one case did the agent to whom that was sent qualify.

Q.—He would not qualify unless he got the full ten, but that would not prevent him from getting these agents appointed, five, or six, or seven or eight or nine? A.—It did increase the number.

Q.—Can you say how many formal contracts you made with those agents that year? A.—It increased our

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agents, if I can remember correctly, only about a dozen, perhaps 15. We never repeated it.

Q.—There is nothing in this letter at all about the agent signing the contracts with the company? A.—No, that is one of our fixed regulations.

Q.—It seems odd it was not mentioned here? A.—They understand our form of procedure in the first place.

Q.—Does that now exhaust every form of bonus that you have offered? A.—That is the last thing that occurs to my mind.

Q.—And you are fairly confident that you have exhausted all that your mind is capable of producing in that respect? A.—Well I have no recollection of anything further, only that case.

Q.—I would like you to try and recollect. I suppose you have known that questions all along that line would be asked, and you prepared yourself for it. Is there any other form of bonus that you have granted to an agent to induce business? A.—None that I can remember, except those two forms?

Q.—None excepting what we have mentioned? A.—I cannot call to mind anything further.

Q.—Nothing further in the way of bonuses to agents? A.—None whatever.

Q.—Do you make any compensation to agents where the agent has had to give a rebate? A.—No.

Q.—Have you never done that? A.—No, we do not allow it in any case.

Q.—But if it is done, and you cannot prevent it being done, don't you made some compensation where the agent practically loses the bulk of his commission? A.—No.

Q.—Have you never done that? A.—No.

Q.—You have never compensated an agent who has had to give a rebate? A.—Not to my knowledge.

Q.—Wholly or in part? A.—Not to my knowledge. We have prohibited it in every instance. The first contract form printed by this company in 1897 contained a forfeiture clause and we have adhered to that strenuously. Here it is clause 17. It is a standard clause in all our contracts. That is a later edition there.

Q.—We will take the form of contract you have handed to me and which is not filled in at all, (Exhibit 650). Now that is not the form of

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contract—correct me if I am wrong, —That you sent in to the Commission. We have not had that form supplied. When was that form got out? Is this what you referred to as to latest form? A.—Well the form is not changed. It is a later print.

Q.—Do you say that clause 17 is in this contract? A.—You will find it in that contract.

Q.—Is that clause the clause that you referred to as creating a forfeiture? A.—Yes.

Q.—How does it create a forfeiture? It reads in this way: "It is agreed that the agent shall not rebate, viz: he shall not sell or offer to sell directly or indirectly, or deliver or cause any one else to deliver," etc., "at any reduction from the regular table rates as furnished to the agent by the company?" A.—It would be a violation of his contract.

Q.—I thought you intended to convey the meaning that if an agent gave a rebate that he would under some express term of his contract create a forfeiture of his agency contract, so that he would no longer be your agent, and you said you had enforced that? A.—The clause is a condition of the contract.

Q.—Have you ever so construed it? A.—We have pointed out to our agents that they run a great risk if they rebate.

Q.—When did you point that out to them? A.—We do it frequently in conversation when the question ever comes up.

Q.—When does the question arise? A.—Propositions have been made for rebating.

Q.—By some agent to you? A.—Yes.

Q.—What position have you taken? A.—Prohibited it in every instance.

Q.—Never sanctioned it in any way? A.—No.

Q.—Not even where it is necessary to get some good policy? A.—Positively refused.

Q.—And you pointed out this clause to the agent? A.—In every case.

Q.—And told him what? A.—That he was not to rebate, that the company would not accept business if they knew it.

Q.—And that if he did rebate, he would cease to be an agent of the Royal Victoria? A.—We prohibited it.

Q.—Did you in any way construe that clause to mean a forfeiture of his agency? A.—If we desired to

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construe it that way, he would be running the risk.

Q.—I am asking if you ever took that position, because you indicated when you first answered the question that you had? A.—Well, we virtually have.

Q.—What do you mean by virtually? Why not say you have? A.—We pointed out it would be a violation of his contract.

Q.—And he would cease to be your agent? Did you go that far? A.—He would cease to be an agent if the directors choose to take the matter up.

Q.—Did you tell him that—that if the directors choose to take the matter up they might cancel his contract? A.—I think I have done that in many instances.

Q.—And that you would bring the matter up and have it cancelled? A.—Well, if I had the evidence of rebates I would probably do so.

Q.—But you did not go so far as to tell him that? A.—I had no case where I could go that far.

Q.—Do you mean to say you have no case where you know your agent has rebated? A.—I do not know of any case. I may have been suspicious. I do not say our agents never rebated, but never with our consent and approval.

Q.—And you have no knowledge of a case where your agent has rebated? A.—I do not know of any case where our agent has rebated. They are careful not to tell me about it.

Q.—And you are careful not to know about it? A.—Well, I do not want to run up against trouble, seeing rebating has been a vicious practice.

Q.—In order to finish that aspect of it, you have supplied the commission with a statement showing the policies issued in the year 1904? A.—Yes.

Q.—697 of them? A.—Yes.

Q.—Aggregating \$817,250? A.—Yes.

Q.—Of these 697 policies issued in 1904, 48 were not taken? A.—Yes.

Q.—Amounting to \$51,500. Of the same 697 policies 41 lapsed in 1904; that is, in the year of issue; aggregating \$41,500, and 247 of the same policies lapsed in 1905, aggregating \$274,500, or a total of 288 policies lapsed, aggregating \$316,000; adding

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the not taken policies to these lapsed policies it resulted in \$367,500 of insurance coming to an end in the year of issue or the following year out of \$817,250 of insurance written, or 45 per cent. of the business passing off the books within the year of issue or the following issue? A.—Within two years.

Q.—No, not two years; it is not fair to say two years, is it? A.—Well part of two years; one full year and perhaps half another.

Q.—You would say it would average a year and a half? A.—Yes.

Q.—That would not be quite correct either, because your large business was in December, especially the business that becomes not taken or lapsed? A.—The largest issues were in December.

Q.—Not only the largest issues, but are not the most of the policies that become not taken or lapsed in the following year—are they not December policies? A.—No.

Q.—If they are before December, they would become not taken before the end of the year? A.—We find our November and December business renewals, probably the very best of the year.

Q.—There were 48 policies not taken? A.—Yes.

Q.—Now they could not have been issued much before December or they would never have been in the annual statement of 1904. They would not have been treated as not taken in the following year? A.—They would be issued in the earlier part of the year and cancelled during the year.

Q.—Would they come in as not taken policies? A.—Yes.

Q.—Then it might be construed as a year a year and a half? A.—Yes, it might be.

Q.—Is that not a high percentage of your business, passing off your books, 45 per cent. of the business written during the year? A.—I do not think it is larger than the other companies doing business under equal circumstances.

Q.—What do you mean by equal circumstances? A.—Young companies.

Q.—Do you consider yourself a young company? A.—Yes.

Q.—How long will it take before the company is full grown? A.—It is in the younger class now.

Q.—It is now nine years old? A.—Yes.

Q.—How many years should a company exist before it ceases to be properly described as a young life insurance company? A.—It takes considerable time before an insurance company gets to be full grown.

Q.—They never become full grown. The more they grow the more they want to grow? A.—They never decrease, they always get larger.

Q.—When do you want to take your company out of the category of the younger company? How long before you expect to be able to do it? A.—About fifteen years.

Q.—Fifteen years more? A.—No, fifteen years old.

Q.—Six years from now? A.—We will be one of the older companies.

Q.—When there is another commission appointed you will probably consider yourselves as one of the older companies? A.—Yes.

MR. TILLEY: I will put in that statement.

MR. KENT: I suppose a large proportion of the lapsed policies were policies for which the premium was paid by note instead of cash? A.—We never mark a premium paid until it has been paid in cash. We take no account of the note.

Q.—When a note is given for a premium, and that note is not paid, is that policy marked amongst those not taken? A.—The policy is considered not taken.

MR. TILLEY: That is not a lapsed policy? A.—No.

Q.—You are liable on that policy? A.—We would probably be liable.

Q.—Then if a policy is so brought into force that the company becomes liable on it, don't you think it is a misnomer to call that policy a not taken policy? A.—Well, the premium not being paid we cannot put it to our income.

Q.—That is a matter of book-keeping or some other phase of the question. Do you think it is properly described as a not taken policy when the company has been liable on it? A.—Possibly it might be considered a taken policy.

Q.—So long as the note is in existence, as Mr. LeBeuf points out, it is a taken policy and in full force? A.—I think the companies differ in the treatment of that question.

Q.—Which does a young company prefer, to treat them as not taken or as lapsed—from an advertising standpoint? A.—Well, I don't think it

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makes much difference one way or the other. Lapsing is just as bad as not taken.

Q.—Probably a little worse? A.—No, because the company is not quite so much out on a lapsed policy.

Q.—Following this statement through; in the year 1899 your income and disbursements are shown there and your assets and liabilities, and the impairment of capital stock at that time had reached \$37,651.09? A.—Yes.

Q.—That is at the end of two years and a half practically? A.—Yes.

Q.—Your insurance in force was \$1,653,807, or an increase of \$733,230. Then at the end of 1900 your impairment reached \$52,904.75? A.—Yes.

Q.—That would be at the end of say three years and a half, would it not? A.—Yes.

Q.—Now, that fixes about the time when you thought possibly your impairment would be made good, that is the time when you were quite sanguine? A.—No, that is a little too early.

Q.—Shall we go another year. It ought to be holding steady about that time at any rate, shouldn't it? A.—That would depend on circumstances.

Q.—According to your expectation at the time you formed the company? A.—Rather according to my hopes.

Q.—Would you distinguish your hopes from your expectations? A.—Yes.

Q.—And which did you communicate to the proposed shareholders, your hopes or your expectations? A.—I communicated a medium of both.

Q.—Then at the end of 1901 the impairment which at the end of the year before had been \$52,904, had become \$74,595.06. An increase of about \$22,000. It had jumped up between 40 and 50 per cent. That is what you expected Mr. Burke, when you organized the company? A.—No, I think our claims were a little heavy that year, if I remember correctly.

Q.—Just look that up will you, because it is important that you should state every circumstance that affects this result. Then look at it in a little different light, your first broken year's business was \$242,500? A.—Yes.

Q.—The next year the net increase was \$678,077? A.—Yes.

Q.—The next year \$733,230. That was in 1899. Now, is it fair to say that you decided then not to push out for so much business? That you

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found the impairment of your capital becoming so considerable that you decided to become a little less anxious in the chase for business? A.—Yes, that was our position.

Q.—Then in 1900 it dropped down to \$397,853 did it not? A.—The new business?

Q.—No, the increase? A.—Yes.

Q.—And still there was the increase in impairment. The following year, 1901, the increase in business was \$628,492 and the impairment was \$74,595.06. So that notwithstanding that you were not reaching out for business as you had apparently anticipated doing, your impairment was going to be faster than you had expected? A.—Well, that was not so much due to the expense; the impairment was increased largely that year by our claims falling in among large sized policies. Our policies that year averaged \$2,857 each in the claims, while the average policy in force was only about \$1,300.

Q.—That is to say that taking all your policyholders and averaging up their insurance in force it amounted to about \$1,300 for each man? A.—Yes.

Q.—But with the particular ones who died in that year averaging their policies, it amounted to how much? A.—\$2,857.

Q.—So that the ones that were largely insured in your company and above the average happened to die in that year? A.—Correct.

Q.—Then your total claims in that year, 1901 is that? A.—Yes.

Q.—The amount paid out in death claims amounted to what? A.—\$20,000.

Q.—\$9,500, isn't it? A.—Death claims arising, that is taking the liability.

Q.—The \$10,623 would that show death claims that had accrued but not paid at the end of the year? A.—Yes.

Q.—And then you had paid out in death claims \$9,500? A.—Yes.

Q.—Part of that would be for the preceding year, I suppose? A.—Yes.

Q.—The death claims carried forward from the previous year amounted to \$5,132? A.—Included in the liabilities.

Q.—So that you paid out that year \$9,500 which would only be some \$4,400 over the liability carried forward from the preceding year and then you have at the end of the year \$10,632. How is it that such a large sum was carried forward? A.—Well, arising

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in December we did not have the proofs completed.

Q.—Was it in December? A.—Well, we pay within 30 days as a rule, if the case is clear. We pay as promptly as possible.

Q.—So that the death claims that fell in in that year to be paid amounted to only about \$15,000? A.—The death claims that fell in to be paid amounted to \$20,000.

Q.—No, because \$5,000 of that was carried forward from the previous year? A.—Well, I think that is only the cash account taken in there. The claims maturing through death were \$20,000 in that year.

Q.—What should they have been in that year, if they had been normal or the average? A.—If our experience had been as favorable as some of our competitors they would not have amounted to \$10,000.

Q.—Then would it be fair to say that if \$10,000 was taken off that item you would be perfectly satisfied? A.—We would have been satisfied.

Q.—The impairment, though, in that year, 1901, rose \$22,000, so that taking off that ten increases your impairment by \$12,000 in the year that you must have thought, when you commenced the incorporation of the company, that your impairment would be standing still or becoming a little more favorable to the company. A.—That is what we hoped for.

Q.—But not what you expected? A.—No.

Q.—Making the same distinction. Then in the year 1902 the impairment was \$84,014.72, an increase of \$20,000 again. Now was there anything that was not normal about the death claims that year? A.—No, not in that year.

Q.—You, in that year, took credit in your statement for an increase in market value, did you not, of \$2,485.76. A.—Market value of securities over stock.

Q.—That is the first time you took that item into account? Without that of course the impairment would have been just so much more? A.—Yes.

Q.—Then in the year 1903 your impairment increased from \$84,014.72 in the previous year to \$108,056.02. That is it increased some \$24,000. A.—Our claims in that year were heavy again.

Q.—Death claims? A.—Yes, \$30,000.

Q.—The preceding year they were eighteen. A.—Yes.

Q.—This year thirty, but that would be expected, some increase because

your insurance was increasing all the time? A.—Yes, but that exceeded the expected increase. The policies were again large under the claims.

Q.—Is that the reason for it, rather than large expense in getting the business? A.—That was a large factor in the increase in the impairment.

Q.—How much too great were the death claims in that year according to your understanding? A.—Well, I would have anticipated about \$15,000.

Q.—What was the average amount of the death claims paid in that year? A.—\$1,500 each.

Q.—And your average policy? A.—About the same, about \$1,350.

Q.—Did too many insured people die? A.—The number was larger in that year, rather a large increase.

Q.—How many died? A.—Twenty.

Q.—And in the preceding year how many died? A.—Seven.

Q.—Is there anything else you can say about that year 1903 which explains the increase in the impairment? A.—Nothing beyond that and the cost of the business which seemed to be increasing.

Q.—You were not then forcing the business in order to get new business? A.—Not particularly. It was more to hold.

Q.—Your net increase was \$439,339? A.—It was more particularly to hold our organization.

Q.—Then the next year 1904 your impairment increased from \$108,056 to \$130,837.30? A.—Our death claims were again large in that year, in the same proportion.

Q.—What did they amount to? A.—\$35,200 averaging each policy \$1,750.

Q.—Instead of? A.—About \$1,350 each policy.

Q.—With all these large policies falling in I suppose the average policy must have been reduced all the time; we would get down lower than the \$1,300 with so many of the large policy holders dropping out. It has not materially altered the average policy.

Q.—Then you still take credit for market values as securities over the book value amounting in that year 1904 to \$4,217.77. Your increase in business for the year amounted to \$406,401.70, that is new insurance. And then in 1905 that would be the eighth year, would it of your business?

Q.—The impairment increased from \$130,837.30 to \$155,267.91, that is an increase of \$25,000, the largest increase that we have met, is it not? A.—Yes.

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Q.—What would you say about the year 1905? A.—Well, our claims again fell in among the large sized policies, each policy averaging \$1,709, total \$41,000. We also wrote something off the market value of our securities that year.

Q.—You have got an item in as an asset, market value over book value of \$3,157.84. How much did you write off the value of securities? A.—It would be the difference between that and the year before.

Q.—That is only an item of \$1,100. The year before it was \$4,217? A.—True.

Q.—Then that is \$1,100. How much too much were the death claims? A.—We estimated that the death claims would amount to about \$20,000. More than I had hoped for.

Q.—Don't use the word "hope" because you draw a distinction between hope and expect. What did you expect? A.—About \$20,000.

Q.—The terms are synonymous there, are they? A.—Well, comparing my company with competitors, in several instances their claims were very much less than \$20,000 on an equal business in force.

Q.—Why is it that each year the Royal Victoria differs so from its competitors in that regard, is it due to medical selection or to the class of policy you issue? A.—No.

Q.—Do you urge a different class of policy from other companies? A.—No, it is due to the fact that in a limited number of lives exposed to risk that a company may either lose among its large policies or among its small ones.

Q.—You won't get the same average result with a very small number of lives exposed? A.—No.

Q.—You are apt in one year or in successive years to continually get the larger policies falling in? A.—Yes.

Q.—And one year does not average properly with another? A.—No.

Q.—For a small number? A.—The mortality tables are based on a large number of lives, and a small company with a few lives exposed may either have a very small mortality experience or a large one, both as to the numbers and to the size of the policy. It is an incident in the mortality experience.

Q.—Can you say now at the end of the month of October about what the impairment is to be for 1906? A.—That is very difficult, because we cannot tell until we know what our reserves will likely be.

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Q.—Is the impairment going to increase or decrease? A.—Well, I don't suppose it would decrease. I would not say it would. It may probably increase slightly.

Q.—As much as last year? A.—I hardly think so.

Q.—Increase \$10,000 or \$15,000? A.—We might have some increase.

Q.—You have not come to the stage yet of turning the corner have you?

A.—No, the impairment would not have shown up if we had had any funds beyond our capital to meet our expenses, as some of our competitors have had.

Q.—If you had resorted to the improved methods of some of the other companies you think you would not have shown the same impairment. Have any monies been paid in to your company in order to help out this impairment? A.—Not one dollar.

Q.—Have you never thought of that as a possible scheme? A.—I have thought of a scheme for the reconstruction of the capital.

Q.—That was decided on in 1905 to consider some new method in December? A.—Yes.

Q.—There is nothing relating to that appearing in the minutes of 1905. Was it left out advisedly? A.—It was simply an outline.

Q.—It was so general that it could hardly be committed to a minute? A.—Yes.

Q.—Just general discussion? A.—Yes, the idea was, however, to seek for an amendment to the company's charter.

Q.—Of what nature? A.—Reducing the paid up capital and reducing the subscribed capital partly and offering some of the stock that would be cancelled, for re-subscription. Offering the shares at a premium and making them preferential.

Q.—That is to take up this new method of issuing stock? Get in a little surplus by way of premium on stock. A.—It is an old method.

Q.—It is since your company and yours is a new company. A.—No, I think that has been in vogue some time. I would like to make a statement in connection with that.

Q.—Yes? A.—Out of 22 companies coming under the Commission, 17 of them have received, either a premium on the shares or a bonus on the shares or loans or gifts from stock holders or directors. This company, with four others, have never received a dollar in that way to assist them in any

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form, and the other four companies are old companies established when the business cost about one half of what it costs now.

Q.—That is to say, the same management and the same insurance business carried on, would not show impairment in these other companies where monies had been contributed and not called capital? A.—It would reduce the impairment very much.

Q.—If the premium paid in was large enough, it could wipe out any impairment? A.—Yes, in one case it was. It prevented an impairment of the capital. In the other cases where the companies received various amounts it did not preclude the impairment of capital but it greatly reduced it.

Q.—Don't you think, Mr. Burke, that at the end of 8 or 9 years' business, when you are not writing as much new business as you did some years ago, where you seem to have refrained from writing as much as you had it in your mind to write originally, that at the end of this time, the impairment should be improving rather than getting worse each year? A.—Well, it should improve, at least from this time afterwards.

Q.—It will have to improve very rapidly if it is to be right at the end of 15 years? A.—It is not likely that the same conditions will continue.

Q.—Why? A.—We can hardly imagine that our claims will continue to fall in among the larger policies.

Q.—You are entitled to a few good years in that respect coming pretty soon? A.—Yes. We might have another year when our policies would fall in at an average of \$800 or \$900 as in the case of several companies.

Q.—But even with average death loss, according to your own calculations, the impairment is worse than you expected it would be when you commenced the company, that is fair to say? A.—Yes, the conditions have changed materially.

Q.—And those conditions that have changed are the ones you have mentioned already? A.—Yes. I have made a close approximation of costs. Would I be permitted to give it?

Q.—Yes? A.—The claims that have accrued to December 31st, 1905, amounted to \$153,700. If the claim that did accrue under each policy was the same size as the average policy in force that would only have amounted to \$121,000. We suffered a loss in that respect of \$32,650 over and above

our average policy. The number that fell in was largely from accident, too. Our claims arising from accident have been somewhat large. We estimate that we would have saved \$25,000 on those. Now, we have experienced a mortality over and above what we would have expected under ordinary conditions of \$58,000. Then, again, the cost of the business through this impairment has been equal to about 10 per cent. more than we should have had.

Q.—How do you get that result? How can you fix on any percentage with respect to an item so indefinite as that? A.—It is a very close approximation of the uncontrollable expenditure, that we could have saved if the competition had not been so great and the capital impaired, amounting to 10 per cent. of the controllable expenditure, making about close on to \$39,000 in that item. Then our mortality experience which I have just quoted, and the loss of interest on our impaired capital amounts to about \$25,000, so that the impairment has brought about under those items amounting to \$122,000 since the organization of the company.

Q.—And you think there will be an impairment in 1906? Probably a similar additional impairment in 1907? A.—I think in the next two years at least the impairment will be reversed.

Q.—You think you will turn the corner in two years from now? A.—Yes, I am perfectly sure unless something unforeseen happens.

Q.—There was a resolution proposed at the meeting of December 10th, 1905; "the question of having an expert examination of the company, as of 31st December, 1905, was discussed and approved and the general manager was requested to communicate with Mr Pearson, Consulting Actuary, of New York, and ascertain the fee he would charge for such examination." Was that examination held? A.—No, that was my proposition.

Q.—Why did you want an examination? A.—Well, because it is a usual thing for a life insurance company to have an examination made by an independent expert at certain times.

Q.—Have you in your company an actuary? A.—We have no appointed actuary but we have an assistant.

Q.—What qualification has he to do actuarial work? A.—He is competent. He is a member of the British Institute and studying for his final examination.

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Q.—Has he done all the actuarial work for your company? A.—Since his appointment he has done our actuarial work.

Q.—You have no consulting actuary? A.—No.

Q.—And your idea was that Mr. Pearson should make a report at the end of 1905? A.—Yes, to make an examination of our methods at the close of the year.

Q.—That was approved? A.—Yes.

MR. KENT: To outsiders, Mr. Burke, it would seem that there must be something seriously wrong with your medical examinations, if your expected mortality is increased rather than diminished as with most of the companies we have examined. It must be that you have insured impaired lives? A.—No, just the reverse. The mortality has not fallen in among lives about which there was any doubt. It is an extraordinary thing that the claims that have arisen have, with one or two exceptions, been in every case first-class lives, and insured in other companies, too. It is a coincidence of the situation; a small company is liable to experience a mortality different from the experience of the companies from which the tables have been derived.

MR. TILLEY: Can you say, Mr. Burke, whether the claims that fell in to be paid and were excessive in amount or number were recently insured lives? A.—This year the claims have arisen among the older lives.

Q.—You are referring now to 1906? A.—Yes, two or three of them were in the beginning of the company.

Q.—What about the claims that fell in during the years you have spoken of as being excessive in regard to death claims? A.—They were running in the average about three or four years.

Q.—Were some of them very lately insured at the time the policy became a claim? A.—In two or three cases, if I remember correctly, they fell in within the first year. A couple of cases in each year.

Q.—Large amounts? A.—No.

Q.—Have you any limit on the amount of insurance that you write on any single life? A.—Yes, \$5,000, that is the maximum.

Q.—That has not been exceeded? A.—In no case and then only a first-class life and usually an endowment policy. We have reduced the limit, though, to \$4,000.

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Q.—When you say the maximum is \$5,000, I suppose you mean that that is the maximum amount that your company keeps at risk? A.—Yes.

Q.—It may take a policy for ten, fifteen or twenty thousand dollars and then reinsure the excess over \$5,000? A.—Yes, that is the usual practice.

Q.—Then at the meeting of January 18th, 1906, "memoranda from the Superintendent of Insurance bearing on the company's business, also the general manager's statement referring to the same, were read and discussed." Have you those memoranda here? A.—No, I think I have them at the office.

Q.—What did they relate to? A.—The reference to the Superintendent of Insurance was on a point which came up on the investigation of the Department at Ottawa. The matter of the capital.

Q.—That is the one that is referred to at Ottawa? A.—Yes.

Q.—That is already before the Commission, of course? A.—Yes.

Q.—What position did you take with regard to that? A.—I took the position that I have here to-day, that the mortality was greater than we anticipated and that the cost of the business had increased and that these elements with the loss of interest on capital had brought about the impairment.

Q.—Now, was it because of discussion of this sort that you were anxious that some consulting actuary should make a report? A.—That was one of the reasons, and then I wanted the consulting actuary to see how far I was correct myself.

Q.—Then at the same meeting it states, "the special committee composed of the President and Vice Presidents, appointed at the meeting of December 11th, 1905, in connection with the proposed readjustment of the company's capital, was increased by Messrs. David Morrice and Charles L. Smith, being added thereto." There is nothing in the minutes to show the appointment of the President and Vice Presidents as committee on December 11th, 1905. Can you say why that was left out of the minutes? A.—Simply an omission, I suppose.

Q.—No object so far as you know? A.—No.

Q.—"The question of the appointment of an expert actuary to make

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a report on the company's position, in reference to which examination the General Manager had been in communication with Mr. Pearson of New York, was considered and it was decided not to have an examination made." That is January 18th of this year? Can you tell me why the action of the Board made on your recommendation was changed after you had seen Mr. Pearson in New York? A.—I ascertained from Mr. Pearson what his fees would be and reported to the Board. It then being after the close of the year, the matter was ended that way, not finally, but as far as my impressions go that it might come up at a later date, but for the year 1905 too much time had elapsed.

Q.—Then is it fair to put it this way that you thought if you were to have an expert actuary make a report, that it should be made at the time when you were making your report for the end of the year? A.—That is what I wanted.

Q.—And do you suggest that action with regard to that was simply deferred rather than cancelled? A.—Probably that would be the proper understanding, deferred.

Q.—Do you expect at the end of this year to have an expert actuary make a report? A.—I shall make the request again. It is my intention to do so.

Q.—You remember that in the memorandum made by Mr. Blackadar which was put in at Ottawa, that he summarized the matter at the end by stating that he thought that even if the efforts mentioned in two, which were to cut down as much as practicable, the management expenses and to increase as much as possible the amount of new business written, he said that even if that was successfully carried out, he saw no reason for supposing that the impairment would not continue increasing for a few years. Do you remember that? A.—Yes.

Q.—Then he says, "this will necessitate the wiping out of a portion of the capital paid and making a call of further capital or surplus." Do you agree with Mr. Blackadar in that? A.—I think it would be a proper mode.

Q.—Isn't it so, I think you have agreed already, that the impairment will increase even carrying out some changes that you propose, that the impairment will likely increase for a few years yet? A.—Unless we have very favorable mortality.

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Q.—Unless something exceptional happens? A.—Yes, we might have it for a couple of years yet.

Q.—Then is it fair to say that it is absolutely essential that you should in some way reorganize with respect to capital? A.—Yes, I think it is essential. I might say that I discussed that whole question with Mr. Blackadar at the time of his inspection and I did not find any variance in our views.

Q.—Mr. Blackadar refers in his report to the very same matter that you have referred to here, the abnormally high mortality? A.—Yes.

Q.—I will put in this statement showing the progress of the funds of the company from 1897 down to date. (Already marked Exhibit 647). Then the same matter is collected under certain headings which probably will make it a very convenient form to have it in. (Exhibit 652). A statement showing in each year from 1897 to 1905, first the total income but not including capital; payments in respect of capital; the next column the total disbursements; the next the total assets; next total liabilities, including the capital stock paid in. Next column the impairment, and in the outside column the increase, from year to year, in that impairment. That will show the whole matter in a convenient form. Then, do you regard your company as having any exceptional power of investment under its special Act or does it come entirely under the general clause of the Act? That is, is the general clause of the Act as broad or broader in every particular as the clause of your special Act? A.—We are subject to the general Act in our investments.

Q.—There is no question about that but you remember clause 50 in the Insurance Act expressly reserves to each company any special powers of investment that a company has under its own Act? A.—Yes.

Q.—What I was asking you is whether you think there is any clause or portion of a clause that gives you any broader power than is contained in the general Act? A.—No, I think we are governed by the Insurance Act entirely.

Q.—Then have you, from time to time, considered Section 50 of the Insurance Act? A.—Yes.

Q.—When you have been considering any particular investment? A.—Yes.

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Q.—Have you ever refused to make an investment because of the terms of the Insurance Act? A.—Yes.

Q.—Of what nature? A.—Investments are offered to us daily by brokers and those selling bonds and securities, and we have refused to invest in any security that the Act prohibited. I speak now of investing in them.

Q.—Do you mean to say? A.—To own them.

Q.—Do you distinguish between owning the security and lending upon it? A.—Well, according to the strict terms of the Act there may probably be no difference.

Q.—Do you suggest that there is. You used the words "strict letter of the Act;" is there any question about that? Have you any suggestion to make that there is any possible construction on that point that would enable you to lend on a security you cannot buy? A.—Well, probably there is not.

Q.—Is it necessary to begin that statement with the word probably? A.—I think there should be though.

Q.—That is not what I am asking you about; I am asking you whether under the Act there is any contention that can be made that there is any distinction? A.—Well, it would not be right for me perhaps to assume that there was. I have not studied the Act so closely from the standpoint of legal construction.

Q.—Have you anything in mind that makes you approach the subject with a sort of inference that there might be room to question whether or not you could not lend on some of these securities when you cannot buy them? A.—Well, I will not claim that there is any difference.

Q.—Then would you say there is no difference and let us start from there? A.—I will admit that.

Q.—Then as a matter of the carrying on of your business, have you made any distinction yourself when you have had a proposition to lend, from a case where the proposition is to buy? Have you come to a different conclusion in one case from the other as to what you would do without regard to what the Act says? A.—I would make a difference.

Q.—Have you made it? Do not say what you would do, but have you made it in the past? A.—We probably have on two or three occasions.

Q.—Is it "probably" again? Is not "we have" right? A.—That will do.

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Q.—Deliberately? I mean using that word, that you have done it knowingly? A.—I should say so.

Q.—So you probably have. Then have you done that with others than brokers, have you made advances on securities not coming within the Act except with brokerage firms? A.—No.

Q.—It has been confined exclusively to brokerage firms? A.—Borrowers, yes.

Q.—Have any of the firms any connection with the insurance company? A.—No direct connection. The only firm that is connected indirectly is the firm of L. J. Forget and Company Senator Forget is one of our directors, and he is a partner in the firm.

Q.—Then at the time your company was formed, was it the intention, in so far as you had any intention at that time, to make your loans principally on call loans? A.—I think we had no fixed policy in that respect.

Q.—Had you a sort of general intention in your mind? A.—No.

Q.—Well, you must have given some consideration before you had your company formed as to the most profitable and satisfactory security to lend on? A.—The question in my mind chiefly was to invest only in the best securities.

Q.—Then what was in your mind as being the best securities? A.—Municipal debentures, Government bonds, occurred to me as being the most reliable and for long investments.

Q.—Investments that would not require much handling? A.—Yes.

Q.—Then you did not intend, of course, to lock everything up in municipal and Government securities? A.—No.

Q.—Outside of those what was in your mind, real estate loans? A.—Real estate loans, if the same were advisable?

Q.—Had you it in your mind then when you formed your company, that you would lend some of your money on real estate security? A.—That would be part of our policy. Of course the loans are decided by the Board.

Q.—Then among other classes of investment, had you that of call loans to brokers? A.—To a limited extent.

Q.—And you had decided, in so far as you came to any decision, to use that as one avenue of investment? A.

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—Yes, to a certain extent until investments more desirable should turn up.

Q.—Then it comes to that, that you thought loans on call to brokers a desirable form of investment? A.

—Yes, with good security behind them.

Q.—Then you had decided to lend on call? A.—Yes, as each case came up.

Q.—Then what is the first resolution that appeared with regard to that? Was there any formal action taken with regard to that subject?

A.—I think each case was decided upon at the time the money had accumulated in the Bank for investment.

Q.—By which, the executive committee or the full board? A.—Well, the executive committee has in most cases dealt with that. Now, look at the minutes of the executive committee of September 10th, 1897. There is a resolution there about lending on call, is there not? A.—Yes.

Q.—What was the action taken? Just read the resolution? A.—“It was decided to loan at call on first class stock and the general manager was requested to consult Honorable L. J. Forget in the selection of such stock.”

Q.—So that the executive as early as September, 1897—and the first meeting was held when? June 11th, I suppose, that was one of your earliest executive meetings? A.—Yes, one of the earliest.

Q.—Let us see if it was not the earliest. That was the first meeting, was it not? A.—Probably so. I think so, yes.

Q.—And I suppose Mr. Forget was there? A.—Yes.

Q.—He was present at the meeting, and then it was decided that you should loan on call and that you should consult with him as to the securities to be loaned on? A.—Yes.

Q.—Has any resolution ever been passed in amendment of that? A.—None.

Q.—Has that resolution formed the basis of your dealings with respect to call loans? A.—It gives authority to loan on call. As to consulting Senator Forget, I think I only did it on one occasion. I consulted with the President invariably.

Q.—That is with Mr. Crathern? A.—Yes.

Q.—Have all your call loans been approved of by the executive committee? A.—They are approved at

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the next meeting after they are made.

Q.—Authority is not given to make a call loan? A.—No.

Q.—In regard to the security that is decided upon by the President himself or with another director occasionally.

Q.—Just as you please about that? A.—If we do not like to take the responsibility.

Q.—It is left entirely to yourselves to say what members of the Board you will speak to other than the President? A.—Yes, at his suggestion or mine we consult another.

Q.—Then it is between you that you decide who else, if any person, you will speak to with regard to it? A.—Yes.

Q.—And then the transaction, if it is deemed advisable in that way is completed and carried through and subsequently approved? A.—Yes.

Q.—Have you ever made any distinction at all in dealing with a director regarding call loans from dealing with other brokers? A.—None whatever.

Q.—You treat it exactly in the same category? A.—Just in the same category.

Q.—The first call loan you made was made to Senator Forget's firm was it not? A.—Yes.

Q.—A loan of \$20,000? A.—Yes.

Q.—On November 4th, 1897? A.—I saw the other partner of the firm on that occasion and asked him if he would take \$20,000 from us. I did not speak to Senator Forget about it.

Q.—That is to say you sought to get your money out on a call loan? A.—Yes.

Q.—Rather than the firm seeking you as a lender? A.—They never asked us for money.

Q.—Do you mean to say from 1897 to date they have never asked you? A.—Never asked us. We have always offered it to them.

Q.—The transaction has always been initiated by you? A.—Always.

Q.—You having monies in hand seeking investment, you have gone to the firm and stated what monies you had to loan? A.—Yes.

Q.—And then some transaction would be put through whereby the monies would be placed at interest? A.—I have asked them if they would take it?

Q.—In these statements you have sent in you have not in any case indicated the rate of interest on call

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loans? A.—The rate varies. It has gone as high as 6 per cent. and down to 4½. The rate is in our investment book.

Q.—The rate at which it is approved? A.—Yes, and of course it changes, every two or three months; according to the value of money.

Q.—Do you lend sufficiently on call to be able to say what is the prevailing rate or do you get that from the brokers? A.—We have loans to three firms only.

Q.—What three firms? A.—L. J. Forget & Co., Macdougall Bros. and Burnet & Co.

Q.—Are either of the other firms directly or indirectly connected with the company? A.—No, MacDougall Bros. are interested to the extent of \$5,000 subscribed stock.

Q.—They hold stock to that extent. There is no other interest in those firms than that? A.—None whatever.

Q.—Then, have these firms all paid you the same rate of interest at any given time? Has the rate been uniform throughout? A.—No, in some cases the borrowers would notify us that the rate of interest was reduced.

Q.—The borrower would notify you that the rate of interest was reduced? A.—Yes.

Q.—That is to say by banks and other loaning institutions? A.—No, that they had reduced their rate of interest payable to the parties that had loaned to them.

Q.—Would you repeat that, please. A.—That they had reduced their rate of interest—the rate of interest they were paying to the parties from whom they borrowed, they were borrowers.

Q.—They were borrowers, and they, the borrowers, had reduced it.

MR. LANGMUIR: That is the client of the broker?

MR. SHEPLEY: No, the brokers themselves.

MR. TILLEY: You say the brokers themselves would notify you. Do you mean to say that the general prevailing rate of interest on call loans had declined? A.—Yes.

Q.—Not that they had reduced the rate of interest that you were to be paid? A.—No, they were doing it with their clients.

Q.—Is it fair to put it this way, that they had reduced the rate of interest they were charging their customers? A.—No, we had nothing to do with that.

Q.—But they would tell you the rate of interest has dropped? A.—Yes.

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Q.—We will say you were charging 6 and one of them would send over word that the rate of interest had gone down to 5½ and you would change it. A.—Yes, they would notify us directly that the rate they would be paying would be 5½.

Q.—Did it ever occur that you were charging 5½ and they would raise you to 6? A.—Yes, and we have also raised them.

Q.—Have you ever lowered them? A.—No, we wait to be advised.

Q.—They have lowered themselves and you have raised them sometimes? A.—Yes.

Q.—And sometimes they have raised it themselves? A.—They have.

MR. KENT: That is rather a novelty. A.—That is governed by the rate of interest on call loans. The banks regulate that.

Q.—It is the first time I ever heard of a borrower increasing the rate of interest he is paying. A.—I had a case, the last \$10,000 we lent, the borrowers notified us in connection with the new loan that the rate of interest would be a certain rate and that the old loan would be raised equally, which was a half per cent. They are very respectable firms, you know.

MR. TILLEY: Of course, Mr. Burke, we are not at all reflecting in any way, we are just getting the facts. I suppose on receiving a notice such as that, you would assume that the prevailing rate had been altered by other lending institutions to brokers? A.—Yes.

Q.—Is it right to say that there is a prevailing rate for call loans, that it is so uniform that you can say that? A.—It is not exactly uniform but it comes within a certain rate. There might be half or a quarter per cent. difference. One bank may raise the rate and perhaps another bank won't. But if there is a material change the banks will all follow it and we naturally have to accept the same.

Q.—I suppose you got along without any friction at all? A.—Very little.

Q.—If the rate was lowered and you were not satisfied, of course, there would be the right on your part to call? A.—To call in a loan, and the same with them.

Q.—And if they were not satisfied with any stipulation you made by way of raising your rate, it was their privilege at any time to pay off the loan? A.—Yes.

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Q.—But conditions were not such that it required any action such as that? A.—No.

Q.—No loan was ever paid off because you wanted to charge too much and you never called a loan because the broker wanted to pay something you were not willing to accept? A.—I don't remember any case like that.

Q.—And for the most part the broker has fixed the rate of interest? A.—We have to accept the rate of interest otherwise he would not take the loan. Sometimes loans have been paid off because the borrowers did not want the money then and did not want to pay interest on it.

Q.—When that was done you would deposit the money, would you? A.—We would get the money and put it in the bank and loan it again as quickly as possible.

Q.—Again on call loan on stocks? A.—Yes.

Q.—And at the rate the broker fixed? A.—Yes, with interest, however at the prevailing rate, the best rate that could be obtained.

Q.—What portion of your available funds have you had loaned in that way, from time to time? A.—Our loans up to the end of 1905 stood at \$110,000.

Q.—They had been higher than that before? A.—At one time.

Q.—Almost every time. In 1897 apparently you loaned about \$40,000. In 1898 it got up to \$65,000; in 1899 \$100,000. You see, right along these loans were at least half of all your assets? A.—Yes.

Q.—In 1899 your assets were \$203,000 and you lent \$100,000 of it on call? A.—Yes.

Q.—Then in 1900 you loaned \$120,000 out of \$232,000. That was in January. In December, 1900, you were loaning \$125,000 out of \$232,000. Of course the \$120,000 would be out of a less sum than \$232,000 because earlier in the year? A.—Yes.

Q.—Then on January 14th, 1901, you were loaning \$150,000 on call out of \$272,000, and on May 13th, 1901, you were loaning \$155,000 on call. On September 14th, 1903, \$95,000. October 7th, 1903, \$100,000. February 10, 1904, \$125,000. January 1st, 1906, \$110,000, and at the present time, how much? A.—At the present time \$140,000.

Q.—So that you have been, taking it throughout the whole period, lending approximately 50 per cent. of your available assets on call? A.—Yes, and

I think that is better than owning real estate.

Q.—What about lending on real estate? A.—Well, you wouldn't get as good a rate of interest.

Q.—What average rate of interest have you received on your funds? A.—On our interest earning funds we must have obtained about 4½. Of course not on our total assets, because there are always assets that are not interest earning.

Q.—What assets do you refer to there? A.—In the total assets there would be outstanding premiums and the like.

Q.—What interest do you get on outstanding premiums? A.—The deferred premiums earn interest at about six per cent. per annum for the half year.

Q.—That would fall into the interest fund? A.—No, that falls into the actual premium.

Q.—You call that premium? A.—Yes.

Q.—You never distinguish what is added to the premium for deferring the payment? A.—No. Would you allow me to explain about those large amounts on call loan at the end of the year?

Q.—Yes? A.—In this case I remember distinctly we were waiting for investment.

Q.—I was wrong when I said it was the end of the year; these are just taken from your minutes or some place where you had shown the amount of money you had out on call. In no case is it December 31st. It is November or May or January, just taken at random from your minutes to show about how you have loaned from time to time on calls? A.—Yes, I think our policy was rather than leaving the money in the bank without interest to put it on call loans whenever we could get them.

Q.—Waiting an investment on what, because you seem to keep it there, more to reinvest in call loans than for any other purpose? A.—I am speaking of the earlier dates.

Q.—What investments were you awaiting? A.—I can only speak of that as probably a reason why there had been in some of the accounts a larger amount than probably was necessary.

Q.—Because that is the reason you give I want to know the basis for it. What investments were you awaiting and what investments have you made other than keeping it going in

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and out on these call loans? A.—We have been increasing our deposits with the Government in several amounts in different years.

Q.—Were you awaiting the time when you would make a deposit? A.—My idea is, and always has been, to deposit with the Government a large amount of securities.

Q.—How much have you deposited with the Government now? A.—We have \$250,000.

Q.—What are you required to have deposited? A.—\$50,000.

Q.—Why have you the additional deposit? A.—For the reason that it is a good investment. It is a good policy to buy long investments and put them in the best possible place for security. The Dominion Government is responsible to the company and the policyholders for the custody of those securities.

Q.—I suppose it is an offset to agents talking about this impairment of capital? A.—Well, I take it the general impression is that a good Government deposit is a good thing for a company to have, it gives a feeling of security.

Q.—It gives the Royal agents something to talk about? A.—Yes, perfectly justifiable.

Q.—Have you the information as to how that has been built up from year to year? A.—1904 we bought \$15,000 of City of Ottawa bonds for deposit, at the time these loans were running. In the same year we bought \$50,000 of the City of Montreal bonds for deposit and deposited them.

Q.—What was the next? A.—It was a similar transaction.

Q.—That is \$65,000, and when was the last one before that? A.—In 1902 we purchased \$24,000 of Canadian Northern Railway bonds, guaranteed by the Province of Manitoba.

Q.—Those were deposited with the Government, too, were they? A.—Yes, all deposited with the Government. In October, 1901, we purchased \$55,000 of St. Henri. In April, 1901, we purchased \$60,000 of the Province of Manitoba bonds. These were deposited with the Government. In 1897 there were \$6,000 Province of Nova Scotia bonds. That was the earliest of our purchases. Then there was the Dominion of Canada stock, \$56,300, purchased in 1897. These have matured and been replaced. The amount now on deposit is \$250,000.

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MR. SHEPLEY: That makes \$277,120. A.—The last Blue Book has the details. The total is \$250,553.35 par value.

Q.—(Reads from the last Government return the items of securities deposited with the Government.) A.—Making the total I have given.

Q.—Then, Mr. Burke, you have loaned in some of these cases on securities that are not authorized by the Act, have you not? A.—Yes, I think so.

Q.—Tell me what loans you have made not authorized? A.—In three or four instances, so far as I can remember, without referring to the records.

Q.—I wish you would give me this exactly, please. I suppose this is one of the things you had in mind that you would be asked about, unauthorized loans? A.—They did not strike me as very serious.

Q.—On September 30th the third call loan you made, you loaned on C.P.R. stock, didn't you? A.—Yes.

Q.—To whom? A.—That was to L. J. Forget & Company That was in 1897.

Q.—The account with L. J. Forget & Company is at page 13. The call loan is \$20,000? Is that the one? A.—Yes.

Q.—You had a rate of 2½ per cent. interest? A.—At that time.

Q.—Was that the current call loan rate at that time? A.—Yes.

Q.—In 1897, 3½ per cent.? A.—Yes.

Q.—Payable quarterly? A.—Yes.

Q.—On 200 shares of Montreal Street Railway, transferred in the names of James Crathern and David Burke in trust. Then on January 1st, 1898, changed to a three months' loan at 4 per cent.? A.—Yes.

Q.—March 4th, 1898, the security was changed to 300 C.P.R., market value 85¼, and 250 Toronto Street Railway stock, market value 103? A.—Yes.

Q.—April 1st, 1898, interest at 4½ call from this date. April 5th, 1898, interest 5 per cent. call from this date. June 6th, 1898, 4½ per cent. call from this date. Where is the current account, do you keep a separate one on each page? A.—They are all consolidated now into one account.

Q.—The account has all been consolidated now. It is a loan of how much? A.—\$60,000.

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Q.—On March 23rd, 1904, the interest was made 5 per cent. February 4th, 1905, 4½ per cent. March 11th, 1905, 4 per cent. November 1st, 1905, 4½ per cent. November 11th, 1905, 5 per cent. May 7th, 1906, 5½ per cent. June 4th, 5 per cent. September 20th, 1906, 5.12 per cent. Now show me the other brokerage account so that I can compare the rates of interest. The heading on MacDougall Bros.' account is 5 per cent. from January 20th, 1904, and then 4½ per cent. from November 1st, 1905; 4½ per cent. from February 19th, 1906. I see that it was entered here 5 per cent. from November 14th, 1905, and afterwards struck out. What does that mean, that they would not agree to that rate? Different rates are struck out. A.—There may have been some change. I am not familiar with that.

Q.—April 10th, 1906, 5 per cent. In April, 1906, the other account was 5 per cent. May 8th, 1906, 5½. June 7th, 1906, 5 per cent. June 22nd, 4½ per cent. So that the accounts do not run uniformly as to interest. A.—No, but I think the interest will average at least 5 per cent.

Q.—Then on October 21st there was another loan on C.P.R. to MacDougall Bros., 225 shares? A.—Yes.

Q.—And on April 15th there was a call loan of 50 shares of Canadian Colored Cotton stock? A.—Yes.

Q.—Did you regard that as coming under the Act? A.—Well, in all probability that escaped my notice.

Q.—Why do you say that? A.—I don't remember having passed an opinion at the time.

Q.—Would you have loaned on it, if you had know about it? A.—Well, I would not like to violate the Act.

Q.—You had violated it already in the C.P.R. stock? A.—I suppose I did, according to the strict interpretation of the Act.

Q.—Or to the liberal or loose interpretation either did you not? There was no question that that was a violation of the Act? A.—I think it was, yes. But I do not consider the Act by any means perfect.

Q.—But it is there for your guidance is it not? A.—Yes.

Q.—Was there any discussion about lending on C.P.R. when you lent on it? A.—I don't remember any.

Q.—Did you suggest that the Act would not permit it to be done? A.—I cannot remember.

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Q.—You don't remember about that at all? A.—I don't remember the circumstances.

Q.—Did you ever complain of the loan on Canadian Colored Cotton stock, when you found it out? A.—Yes.

Q.—What do you remember about that? A.—My memory is that they were changed, that the security was changed.

Q.—And something else given you? A.—I think in all probability there must have been.

Q.—Apparently not; that seems to be the last security you have and that was received by you in consideration of giving up 50 shares of Montreal Street Railway. Look at April 15th? A.—That was to H. C. Scott.

Q.—There is another loan on Canadian Colored? A couple more loans. Probably you are not referring to this one. You made several loans on Canadian Colored stock, did you not? A.—The Canadian Colored Cotton stock was part security. There were other securities.

Q.—In each case? A.—Yes.

Q.—But that was the security on which you made the loan? A.—They were included.

Q.—In the case I was referring to of April 15th, 1898, that was the only security for a loan of \$5,000? A.—Yes.

Q.—And then on July 22nd in the same year you loaned on 150 shares of C.P.R.? A.—Yes.

Q.—To L. J. Forget & Co. On January 15th, 1900, you loaned \$20,000 on 200 shares Canadian Colored Cotton stock and 200 shares Twin City Rapid Transit Stock? A.—Yes.

Q.—Was Twin City a stock on which you were authorized to lend? A.—No.

Q.—Why did you lend on it? A.—I considered the security perfectly good.

Q.—And did not care about the Act? A.—Well, I suppose I overlooked the prohibition.

Q.—You disregarded it? A.—Probably that would be my answer.

Q.—Intentionally, I suppose? A.—I think in that case I did.

Q.—Was there any special reason why you should do it? Here were two stocks, one Canadian Colored Cotton and the other Twin City as securities for a large loan of \$20,000 and you knew they were not authorized? A.—They were offered to us and on the market in Montreal; at

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the market value there was a large margin and we evidently concluded to accept them.

Q.—You say there was nothing special about it? A.—I don't think so.

Q.—You made a loan on that date of \$20,000 at 6 per cent. and the stock was put in the names of James Crathern and David Burke in trust. The certificates would be 25 shares each. The rate is changed, on May 14th, 6 per cent., June 15th, 5½, and August 21st, 5 per cent. Has the loan been paid off? A.—Yes.

Q.—Then you were offered the stock without any discussion or any special circumstance, you just took it the same as if it had been a properly authorized security? A.—Yes.

Q.—You did not consider the propriety or impropriety of it having regard to the Insurance Act? A.—We did not consider it seriously.

Q.—You considered it something you had no right to do but because you thought the security was good you decided that you would make the loan whether the Act authorized you to do so or not? A.—I suppose that would be my conclusion.

Q.—Did you ever advise your directors about it being unauthorized? A.—I don't remember at the time.

Q.—Did the directors know it was unauthorized? A.—Possibly they did not.

Q.—Did you think of whether it was fair to let directors approve of that loan knowing that they might be authorising a loan which should not be authorised? A.—That did not enter into my mind at all. I had no idea.

Q.—Did you consider whether the directors might be called upon to pay the company any loss it might sustain with respect to that item, by reason of authorising a loan on security that the company was not entitled to take? A.—No, that phase of it did not enter into my mind. I considered the securities could be sold inside of an hour for 20 to 30 per cent. more than we accepted them at.

Q.—Many a person has thought wrong about what stocks would sell for? A.—That is quite true.

Q.—And you did not apprise your directors of the fact that they were ratifying a loan on an unauthorized security? A.—Probably not on those occasions.

Q.—Did you at any time? A.—Later on we refused to take anything about which there was a doubt.

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Q.—When did you take that plane, this year? A.—Last year.

Q.—I think, perhaps, when the Superintendent of Insurance called my attention to certain securities that we were then carrying.

Q.—What securities did he call your attention to? A.—I think Detroit United Railway was the single case.

Q.—You are not authorised to lend on that because you had no business that you were carrying on in the United States and there was no justification for it at all, I suppose? A.—No, not under the Act.

Q.—You are not carrying on business in the United States at all, are you? A.—No.

Q.—On May 22nd, 1900, you made a loan on 100 shares of Royal Electric stock and 100 shares of Canadian Colored Cotton stock? A.—Yes.

Q.—Did you regard Royal Electric as coming under the Act? A.—Yes.

Q.—Was it an electric light company? A.—Yes, now the Montreal Light Heat and Power.

(Adjourned to two o'clock).

AFTERNOON SITTING.

DAVID BURKE. Examination resumed by

MR. TILLEY: Q.—We referred to the loan on May 22nd, on 100 shares of Royal Electric and 100 shares of Canadian Colored Cotton Mills, and you say that the Royal Electric Company stock comes within section 50 of the Act? A.—Yes, the company has a franchise in Montreal.

Q.—For lighting? A.—Yes.

Q.—Then on December 11th, 1902, you loaned \$15,000 on 200 shares of Montreal Light, Heat and Power. Did you consider at that time whether that was an authorized security? A.—I considered it was an authorized security.

Q.—But some doubt was created about it afterwards, was there? A.—No, I think not.

Q.—Not in your mind? A.—No.

Q.—Well then, passing that over, you told us that on January 5th, 1903, you loaned \$10,000 on the security of 253 shares of the Montreal Light, Heat and Power, 75 of Detroit United Railway stock and 50 shares of Twin City Rapid Transit? A.—I think that is correct.

Q.—Is that the Detroit United Railway stock that you referred to in your evidence this morning? A.—Yes.

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Q.—That is the security which was brought to your attention by the superintendent? A.—Yes.

Q.—Or by Mr. Blackadar? A.—By the superintendent, by a formal communication.

Q.—That was a formal communication to you? A.—Yes.

Q.—You made further loans on that security from time to time? A.—To some limited extent I think only.

Q.—On November 20th, nineteen hundred and five (1905) you loaned on the security of 125 shares of Detroit United Railway. On January 17th, you loaned on 125 shares of Detroit United Railway, the loan being \$10,000, and again on February 7th, you loaned on shares of the Detroit United Stock. When was it brought to your attention by the department that that was an unauthorized security? A.—Very shortly after that.

Q.—After February? A.—Yes.

Q.—Not before February 7th? A.—No.

Q.—At the time it was brought to your attention by the department, do you know how many shares you were carrying? A.—On February 19th, 1906, we only carried 125 shares of Detroit railway.

Q.—Why do you fix that date? A.—Because this is the date of the superintendent's letter.

Q.—You say 125 shares. That letter February 19th, refers to the annual statement you sent in for the end of 1905? A.—Yes.

Q.—So that that did not take into account the 125 and the 75 shares that you received as security in 1906? A.—No, these would be in addition.

Q.—So that that would make altogether 325 shares, all being carried for one broker? A.—Probably so.

Q.—What did you do on receipt of the letter complaining of that investment? A.—Well, shall I read my answer.

Q.—Yes? A.—It is dated February 29th, to the superintendent of insurance.

Q.—We will take that letter out of the bundle and file it. Then the letter from the Department and your reply of February 20th. Does that complete the correspondence about that? A.—Yes, that completes the correspondence. (Exhibit 653.)

Q.—(Reads letters). Did you advise the department later? A.—Yes.

Q.—I will attach that letter of March 5th, 1906, to Mr. Fitzgerald. (Reads letter). In the meantime you had taken in the other 250 shares of **Detroit stock as collateral.** When

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you wrote the letter of March 5th, had those shares passed out of your possession? A.—Everything unauthorized had passed out of our possession.

Q.—The loan originally was \$25,000 and increased to \$45,000. Is that additional \$20,000 made up of these two loans of 10,000 on January 17th and February 7th? A.—Yes.

Q.—You put that all in one loan on February 1st, 1906, and took the securities that are mentioned in the letter? A.—Yes, cleaned out all our securities that there was any question about being authorized.

Q.—Do you say that you did take out of your account everything that was unauthorized under the Insurance Act? A.—So far as I can remember, yes.

Q.—And have you since that date made any loan on unauthorized securities? A.—None whatever.

Q.—Have you any securities now that are unauthorized under the Act? A.—No, we have none.

Q.—You are positive about that? A.—Quite positive.

Q.—None that you are in any doubt about? A.—None whatever.

Q.—And you can say there was no loss with respect to any of the loans on any of the unauthorized securities? A.—Not one dollar.

Q.—Just to complete the record, with respect to these loans, besides the ones we have mentioned, there was a loan on July 17th, 1903, to a brokerage firm of \$10,000 on 150 shares of Dominion Iron and Steel Preferred stock, and 200 shares Canadian Colored Cotton. Both of those of course were unauthorized? A.—Yes.

Q.—I suppose you knew at the time? A.—Well, it might have escaped my notice.

Q.—But probably did not? A.—I would not be prepared to state that far back what impression was on my mind.

Q.—I gather from what you have said, that you have always had that question in your mind when making loans, whether you disregarded the Act or not, was another question, but you always knew of the Act and the provisions of the Act? A.—Pretty fairly.

Q.—Then other than the loans we have mentioned, have you made any other loans on securities that were not authorized, and did not come under the Act? A.—None whatever.

Q.—The record that you sent in of your loans, contains a record of every loan you have made? A.—Every item.

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Q.—On call? A.—Yes.

Q.—Or stocks? A.—Yes.

Q.—Then you have told us already I think that you have no loans on real estate? A.—None.

Q.—I understand that 48.2 of your loans at the present time, or at the end of 1905 were on municipal bonds? Would that be according to your understanding? \$238,735 constituting 48.2 per cent. of the assets invested in municipal bonds? A.—Yes, that would be—

Q.—That would be substantially what you have deposited? A.—I think that is correct.

Q.—Then 5.1 per cent incorporation bonds and 22.2 per cent. in call loans? A.—Yes.

Q.—And then of course the various other assets make up the balance? A.—Yes.

Q.—Have you ever carried on industrial insurance? A.—No, we have never issued an industrial policy.

Q.—Have you insured children at all? A.—No.

Q.—What is the youngest age that your company insures? A.—15 is the youngest age at which we accept the risk of death.

Q.—And you have never violated that rule of the company, that age limit of the company? A.—Well, it is simply not an established rule, but on principle we have not done it. We issue a child's endowment, under which we carry the risk on the endower, and in case of the death of the endower the premiums become paid up, the endowment being paid at the date of the majority of the child, but there is no risk on the child.

Q.—There is no money payable on the death of the child? A.—No. I was never in favor of insuring children.

Q.—I suppose it goes without saying that you have not paid to your shareholders any very large dividend yet? A.—No, not yet.

Q.—You have not paid any at all? A.—No.

Q.—Have you paid out any profits to shareholders? A.—Not yet.

Q.—You have issued policies carrying profits, or suppose to carry profit? A.—Yes, participating policies.

Q.—And how often under the policy that you have issued, are you supposed to add or compute the profits? A.—Our cumulative policies, what we call our with-profits policies, have a deferred dividend period in the majority of them at 20 years, a few at fifteen.

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Q.—Have you any at five? A.—No five.

Q.—You have protected yourselves as to that? A.—Yes, and no ten year dividend period.

Q.—So that the time has not arrived yet to say under any of these policies what the policyholder shall receive in the way of profits? A.—No. The first will be 15 years.

Q.—What have you done towards getting ready for the change in reserve? A.—We will not have many reserves that will be affected by that change in 1910.

Q.—There are very few policies of your company issued before the change in the Act of 1900? A.—Yes.

Q.—Just such policies as were issued between 1897 and 1900 would have to be revalued? A.—Yes, a difference of $\frac{1}{2}$ per cent.

Q.—Do you propose to do anything in the immediate future with respect to that, or leave it until the time arrives to say how much insurance there is? A.—I think we will leave it until the time arrives, as we could not make any estimate as to how much of the business might then be on the books. It will not be large.

Q.—I suppose that anything you give in that direction now would simply be in increase of the apparent impairment of capital? A.—Yes, it would have that effect.

Q.—And for that reason it would not be a judicious thing to do, that is your view? A.—Yes, that is my view.

Q.—I understand you desire to make a correction of a statement you made this morning and we are glad to have it? A.—In reference to policies on which notes were accepted, I stated this morning I did not consider them as taken policies. That was our first treatment in the early years of the company, but in the last four years, I find we treated them as accepted policies; consequently if the note was not paid they would be lapsed policies, but we never included the note as an asset; it simply went in as premiums outstanding in the course of collection, nor did we take in the premiums as income until the cash was paid, but we treated it as an asset.

Q.—You treated it as an asset? A.—Yes.

Q.—And treated the policy as taken? A.—Yes.

Q.—And when the note was not paid and the policy ceased to be a liability on the company, you treated it as a lapsed policy? A.—Yes.

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Q.—Because the number of policies you treat as not taken would not seem to allow for many policies where notes had been given? A.—No.

Q.—Now that you are referring to matters that you overlooked this morning, there is one thing I overlooked, and that is to ask you how much you paid out in the way of organization expenses in connection with your company? Have you a memorandum of that? A.—Yes, the total organization expenses of the company, including commissions paid on shares secured, and on the cost of the charter and ordinary expenses previous to the company's organization being completed, was \$2,270.95; and \$485.65 of that amount was for the fees incurred in getting the charter through Parliament.

Q.—Getting a private Act? A.—Yes, and the commissions on stock were \$1,785.20, a total of \$2,270.95.

Q.—Does that represent every item of expense that the company had? A.—Every item of expense the company had in connection with it.

Q.—Did you obtain subscriptions for stock? A.—Very largely.

Q.—And were you paid any commission for it? A.—None whatever.

Q.—So that the \$1,700 odd that you have spoken of covers every payment you made to any agent by way of commission? A.—Yes.

Q.—And less than \$500 covers all your expenses in connection with the preliminary work? A.—Yes.

Q.—Do you show in your books the legal reserve on your policies as a liability? A.—Yes.

Q.—You carried it forward in your books—I am not speaking now of the annual return, but I am asking now as to your own books, the company's office books? A.—We have valuation registers in which we carry every policy.

Q.—Do you include that account in your ledger as one of the liabilities of the Company? A.—No, we do in our statement to the Department of Insurance.

Q.—You must do that, but I am asking you in your own ledgers, showing your assets and liabilities and so on, and the progress of your accounts, you include the legal reserve as one of the accounts? A.—Yes, but we do not make up a balance sheet except at the end of the year, including reserve.

Q.—I am told you have not in your books of account any account which shows the legal reserve as a liability.

I am told that by the accountant. Is he wrong in that? A.—Well, we keep a record of our policies for valuation purposes.

Q.—Of course you would have to do that, otherwise you would have to make a fresh computation at the end of every year? A.—Well, we do make a fresh computation at the end of every year.

Q.—Who does that work in your office? A.—Mr. Beaver.

Q.—Do you check it in any way, or is he entirely responsible? A.—Yes, I check it. I check certain policies.

Q.—In each policy or group of similar policies valued? A.—Each policy is valued separately.

Q.—At the end of every year? A.—Our business is not large enough yet to value by groups.

Q.—Can you say that the reserve as you put it in the annual return is ample to cover the full legal reserve as required by Parliament? A.—It is correct according to the requirements of Parliament.

Q.—In connection with the organization of your company, did you issue policies on which any persons who were insured got the benefit of agent's claims and so on? A.—None.

Q.—None at all? A.—No.

Q.—Do the directors get special terms on their policies? A.—No.

Q.—Do you collect from any persons who are insured the full premium without paying any commission? A.—Yes, we collect in full.

Q.—On what policies do you do that? A.—Well, unless an agent has a contract entitling him to commission, we pay no commission. Where agents have ceased to represent us, the policy holders remit direct the full premium.

Q.—Do you get any commissions yourself? A.—None whatever.

Q.—On any class of business? A.—Nor any connected with the company.

Q.—No person in the head office gets any commission? A.—No, unless it might be where an employee will write up a risk and bring it in we will allow him a commission according to rule, but not otherwise.

Q.—You have in your books an account showing amounts for premiums due your company for reinsurance with other companies, have you not? A.—Yes.

Q.—What does that account represent? A.—That account represents the premium at the end of the year.

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Q.—Due to your company? A.—Due to your company for our reinsurance of the other companies' policies.

Q.—Can you say what that account amounts to, or amounted to at the end of 1905? A.—It might amount to \$1,000, or a couple of thousand dollars.

Q.—Have you a corresponding account for what you owed the other companies on insurance the other companies had for you? A.—Well, they are supposed to keep tab on that business themselves.

Q.—That is a liability of your company, is it not? Whatever you owe is a liability? A.—It would be a liability.

Q.—Is it not the fact that you show the asset of what the other companies owe you without showing the corresponding liability of what you owe the other companies? A.—We take in our liability under the policies with the other companies.

Q.—But you do not take in the premiums you owe the other companies? A.—We do not do that. And of course if a premium is not paid we are under no further liability except for the paid up insurance. The contract would cease. It is a contingent liability.

Q.—And it is a contingent asset in the same way? A.—Yes.

Q.—So that if it is an asset there should be a corresponding liability for what you owe? A.—Well, each case will be under a different transaction.

Q.—It is a different transaction. but the principle is the same? A.—I do not look at it in that way.

Q.—Almost every company seem to have an asset for premiums due to it by other companies, but there does not seem to be any company that owes anything? A.—It would not be required to keep track of what it might owe. If a premium under its own policy is paid to it, it will naturally remit to the other company to keep the insurance in force. The reserve on that policy is put in the account, and it is just in the same position as premiums outstanding—

Q.—That is to say if the premium is not paid to the company it is not under any liability to the other company? A.—No.

Q.—In the same way as you treat the premium due by the other company as an asset, but you do not get the asset? A.—No.

Q.—If there is one account, there should be a corresponding account? A.—No. If the premium is not paid

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the policy lapses, and it releases a reserve under that policy, and it may release a reserve equal to and larger than the amount of the premiums.

Q.—That may be so, and still does not explain why you should treat as an asset what the other companies owe you and not treat as a liability what you owe the other company on the same class of business? A.—It would be in the same position as if one company insured for the other, and there was no exchange of insurance. I do not think the two accounts can be possibly mixed up.

Q.—The two accounts cannot be mixed up as between you and the other company; that is quite true, but you should not swell your assets by the one account, unless you increase your liabilities by the other; that is the point; is that not so? A.—I do not think it could possibly be a material matter. Does that item appear in our account?

Q.—The accountant for the Commission says he discussed that feature of it with the actuary? A.—I do not think he found it in the accounts. He discussed that feature of it.

Q.—While your books show the balance against other companies for premiums due from them, still your books do not show any corresponding items? A.—It must have been a very small amount because we remit in advance.

Q.—Who made up your estimates in the 1897 and 1898 rate book and so on? A.—I took almost exclusively the Northern American figures. They offered to allow me to use their rates and the premium rates were higher, the highest in fact of any of the companies at that date. I accepted their rates, and until January, 1900, did all our business on these rates, following their usage very largely.

Q.—That is up to 1900? A.—Yes.

Q.—And in 1900 what did you do? Increased your premiums? A.—We adjusted our premiums in conformity with the Act.

Q.—What did you do about the estimates? A.—We reduced our estimates because of the prevailing rate of interest.

Q.—I suppose you got some experience and got past the time when you— A.—We judged by the surroundings. Our own experience amounted to nothing.

Q.—In 1900 you put it on a basis you thought was right? A.—We raised

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the premiums and cut down the estimates.

Q.—And you put the blame for the previous estimates on the book you borrowed, is that substantially it?

A.—I would not like to imply that. However, I was guided by that.

Q.—I suppose you had got out estimates that would compete? A.—We had to or not do business.

Q.—I would put in the schedule showing the estimates and the premiums as they were in 1897 and as you changed them in 1898, and again in 1900 and again in 1904. Apparently in 1898 there was no very apparent substantial change. For the life insurance the estimates were the same. On the 20 pay they were the same, and the 20 year endowment was practically the same—exactly the same. Then in 1900 they were all considerably reduced? A.—Yes.

Q.—And in 1904 they were reduced again? A.—Yes.

Q.—That is to say, taking the life plan first at age 25, your estimate in 1897 was \$269? A.—Yes.

Q.—In 1900 \$219, in 1904 \$187; so that in 1900 when you fixed them yourselves, you did not seem to get very close to the real thing, did you? A.—We made a slight adjustment then.

Q.—It is a little more than a slight adjustment? A.—I am speaking of 1898.

Q.—But in 1900 I understood from what you said you made your own calculation and got what you thought was right? A.—Yes, we tried to bring them to more reasonable proportions.

Q.—You would not like to say that you put them at what you thought was right. You say more reasonable? A.—At what I thought was about right.

Q.—Age 55, \$612 in 1900, \$450 in 1904. That is quite a substantial change; aged 45, 20 payment, \$482. In 1900 reduced to \$355, in 1904 \$387, in 1900 reduced to \$284? A.—That was probably being brought about by the fact that the experience of most companies showed that they could not pay the profits they had expected, and we did not want to carry on any higher estimates.

Q.—Further light? A.—Yes.

Q.—The rate seemed to be the same in 1904 as in 1900? A.—Yes, they continued the same as in 1900. (Document exhibit 654.)

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Q.—Then I will put in your answer to the question as to surrender value. This statement you have sent in shows what percentage of the reserve you allow on life, limited life, and endowment policies by way of surrender value? A.—Yes.

Q.—The percentage commences at 70 per cent. and then increases until at the end of ten years and after it amounts to 100 per cent. of the reserve.

Q.—Is that the surrender value that you allow at the present time? A.—Yes.

Q.—And always have allowed? A.—Yes, if I remember correctly, it has been our practice all along.

Q.—That is on participating policies and on non-participating policies, it is just ten per cent. less? A.—Just ten per cent. less.

Q.—And you allow no surrender on term policies? A.—No surrender value on term policies.

Q.—You have established the rule for paid-up policies in the case of limited payment life and endowment policies that you can adjust the percentage that the number of payments made bear to the number of payments to be made under the policy? A.—Yes.

Q.—Then you have set out on life life policies how you compute that paid-up policy? A.—Yes. (Exhibit 655.)

Q.—Then you have also indicated how you fixed the loading, and what you say is this (Reads). That has been gone over many times with other companies. Attached to that statement is the schedule you have prepared showing how you add to the net premiums on the policies to bring up the gross premium charges? A.—Yes.

Q.—You used a percentage and a constant in addition? A.—Yes. (Exhibit 656.)

Q.—You have issued what you call an annuity policy, and, without mentioning the name of the annuitant, the undertaking of the policy is under the first policy to pay an annuity for twenty years, is it not, \$500 per year? A.—Yes.

Q.—Does that annuity cease on the death of the assured, if you may call him an assured? A.—It is an annuity certain, what they call an annuity certain.

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Q.—What do you mean by “an annuity certain”? Does it mean that it is an annuity payable for twenty years over to the annuitant himself, or to his executors or assigns? A.—Yes.

MR. LANGMUIR: Q.—An annuity for twenty years and there it ends? A.—Yes.

MR. TILLEY: If the annuitant is still living he gets no further payment under the policy? A.—No.

Q.—And if he dies at the end of the ten years, for the remaining ten years it goes to his executors, administrators and assigns? A.—Yes.

Q.—What feature of insurance is that in that contract? A.—Well, it is what we call annuity certain.

Q.—That is a name. It is not an annuity at all, is it, in the sense that an insurance company is authorized to issue annuity policies, or contracts which in some respects is supposed to be contingent on the life or death of the annuitant? A.—I think most companies issue plans of insurance that at some time or other in its history it resolves itself into that identical form.

Q.—Yes, at some time or other? A.—Yes.

Q.—But that sometime or other comes about when some person dies? A.—Under certain forms of policy.

Q.—What feature of insurance is there in that? That is a contract whereby in consideration of a present payment to your company you agree to pay another sum of money in 20 instalments? Is that not right? A.—Yes.

Q.—It is a borrowing of money by your company with an undertaking to repay in instalments? A.—In other words it is more of a positive investment.

Q.—It is an investment, yes. Well, that is not insurance? A.—Well, I think we are justified in issuing those policies.

Q.—Have you re-insured yourselves under that policy? A.—No.

Q.—Would you if you were asking for re-insurance treat that as insurance in any shape or form? A.—We would not re-insure that risk.

Q.—Because it is not contingent upon any person's life or death? A.—No.

Q.—There is no contingency about it at all? A.—No.

Q.—It is a receipt of a certain sum amounting in that case to \$7,106.20, with an agreement to pay \$500 a year

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for 20 years? A.—It is more in the nature of an investment for the company.

Q.—That is, the exact equivalent for \$500 a year for twenty years on a basis of three and a half per cent.? A.—Yes.

Q.—So that you have borrowed \$7,106.20, and you agree to pay it back in instalments at three and a half per cent. all the payments being at \$500 a year? A.—In other words we have invested that amount.

Q.—But in the returns you have treated that as a policy or an annuity policy? A.—We treated it as an annuity certain, and took the full reserve as a liability.

Q.—How many other similar, or in any respect similar policies have you issued? A.—That was the only one—where we issued that form of policy.

Q.—You did issue another one to the same party? A.—On his life.

Q.—An endowment of \$5,758 for a single premium of two thousand dollars odd? A.—That is of the same nature I think.

Q.—Was that exactly the same nature or was that payable on death? A.—Probably it will be of the same nature.

Q.—That is to say that was payable on the 30th December 1919? A.—Yes.

Q.—And that is paid on the three and a half per cent. basis? A.—Yes.

Q.—And it is payable on that date whether the person in whose favor it is issued dies before then or is then alive? A.—Yes.

Q.—Then you issued another one to the same party, did you not? A.—Yes.

Q.—An endowment—you call it an endowment—of \$5,263. What do you mean by endowment—an endowment policy? A.—An endowment policy where the amount is payable at the end of a period.

Q.—At the end of a certain period? A.—Yes.

Q.—It has nothing to do with whether he lives or dies? A.—I think that has.

MR. LANGMUIR: Q.—Is that last one payable in a lump sum at the end of the time or in instalments?

MR. TILLEY: The first one is No. 1,246 and that is the one where the consideration is \$7,106.20 and it involved the payment by the company of \$500 a year for 20 years, and the second one numbered 1,247 for a

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single premium of \$2,893.80 and involved the payment by the company of \$5,758, on the 30th December in the year 1919, regardless of whether the beneficiary,——

MR. LANGMUIR: That is a cumulative investment?

MR. TILLEY: Yes. Those two premiums added together make exactly \$10,000, cash payment both taken out on the same date, December 30th, 1899, one involved an annual payment and the other a payment at the end of the period, and each computed on a basis of $3\frac{1}{2}$ per cent., and each regarded by the company really as an investment, is that right? A.—Yes.

Q.—The third policy or document, or whatever it is to be called, is numbered 1,248, and involves two liabilities on the company, does it not? A.—Yes.

Q.—The first is a liability to pay \$5,263, to the beneficiary or his executors, administrators or assigns on the 30th December, 1919, the same date as the last preceding one. That is a similar contract in all respects to the last one we mentioned? A.—Yes with the addition—

Q.—Well as far as we have gone it is the same? A.—Yes.

Q.—And then a second liability on the company under the same contract to pay an annuity certain for 20 years of \$500 per annum to the beneficiary, his executor, administrator or assign, the first payment, to be made on the 30th December, 1904, or at the death of the beneficiary, should that occur sooner.

Q.—So that is the only obligation that rests on the company that in any way is affected by the death of the beneficiary, is it not? A.—Yes.

Q.—And that is taken out on December 30th, 1899, and the premium in that case is five annual instalments of \$2,000, so that the \$10,000, cash paid under the first two, with the \$2,000, being the first of the five payments under the third of those documents, made a cash payment of \$12,000, to the company? A.—Yes.

Q.—Were those documents issued at the request of the company, or at the request of the beneficiary? A.—At the request of the beneficiary.

Q.—It was a transaction that was initiated by him and not by the company? A.—Initiated by the insured.

Q.—It was a transaction that he desired to enter into? A.—Yes.

Q.—Did you consider whether it was an insurance or not? A.—Well

I considered one of the policies was insurance, and the other two I considered as within our privileges, we would issue a policy for an annuity certain.

Q.—Did you consider it was within your privileges by way of your power to invest, or by way of your power to insure lives under your Act? A.—We did it under both.

Q.—You did it under all powers enabling you to enter into the transaction? A.—Yes.

Q.—I will put in the prospectus that was issued when the first \$500,000 was issued. Was that the way it was divided? A.—Yes.

Q.—Both of those documents were issued the same year, and each was a prospectus issued by you in order to sell one-half of the capital stock? A.—I am not sure if they are the same year.

Q.—They are both dated 1897? A.—All right (Exhibit 657).

Q.—You did not in either prospectus indicate to the persons that were expected to subscribe for stock, that there would be any impairment of capital? A.—No, neither did we indicate that they would get a dividend.

MR. SHEPLEY: Do you put it quite so broadly as that. They are very cheerful documents.

WITNESS: Well I think I am dealing with facts now.

MR. TILLEY: Q.—You gave the dividend payable by every company? A.—Yes, that had previously existed.

Q.—Including the Canada Life, Sun Life, Confederation and North American? A.—Yes.

Q.—And then let the receiver draw his own inference? A.—I quoted four good companies.

Q.—You have not seen your company's name used in any prospectus by any other company? A.—No, we are not old enough for that.

Q.—Then as to your former policy, I want to ask you about one or two clauses. What is the provision in your policy in case a note, cheque or draft is given for premium, and not paid when due? A.—The policy as a policy ceases.

Q.—Does it thereby become void? A.—Not if three years' premiums have been paid.

Q.—If three years' premiums have not been paid, it becomes void? A.—Yes.

Q.—Where is the clause with respect to that? A.—Under the 4th, 5th, 6th and 7th additions on the second page.

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Q.—We will put in one of these as a form. (Exhibit 658.) Where is the clause as to the cheque or note? A.—On the other side.

Q.—This is rather an arbitrary provision is it not? A.—It is not intended to deprive the policyholder of his advantages.

Q.—Will you say it does not deprive the policyholder of his advantages? A.—Yes.

Q.—You will say that on the construction of the document it does not? A.—Yes, because we will have to protect ourselves in case the policy is not three years old.

Q.—We will be able to read the provisions of it with respect to that. Then on what condition do you give a cash value under your policy? A.—On the fourth page of the policy we have a table of guaranteed surrender values.

Q.—Then what time must application be made for a cash value? A.—I think on the anniversary—if a policy is surrendered while it is in force—

Q.—He can get a cash value? A.—He can get a cash value when the term expires.

Q.—But if he does not surrender the policy while it is in force, but after he has made default, he cannot get a cash value? A.—He can take a paid-up policy.

Q.—I will refer now to section 15 of your Act, which provides that whenever three or more annual premiums have been paid and the insured failed to pay any further premium, the premiums paid shall not be forfeited—(Reads section, down to the words “provided he shall demand a paid-up commuted policy”)? A.—Our policy conforms to that.

Q.—In what way? A.—Because “after the payment of three or more annual premiums in cash this policy on the anniversary of the date upon which it falls due.” (Reads clause).

Q.—That is a provision that he must make a demand while the policy is in force? A.—Not for a paid-up policy. On the anniversary of the date he can make a demand for the paid-up policy, but in connection with the guaranteed values we have a—

Q.—You see under this clause the insured is entitled to a paid up policy if he makes the demand within six months after he fails to pay the premium? A.—There seems to be a little confusion there.

Q.—And the clause of the Act seems to be disregarded in the form of your

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policy. There seems to be an inconsistency in the obligation to your policyholders and the obligation the statute puts upon you, because under one he has six months to make the payment, and under this he must make it before the policy is in default? A.—There is evidently a slight inconsistency.

Q.—Under your contract the paid up policy is only allowed if surrendered on the anniversary date? A.—Yes. Still we have not adhered to that.

Q.—I will put in the profit and loss statement of your company. This is the statement you have prepared showing your gain or loss made up according to this statement for the year 1905? A.—Yes.

Q.—And that shows that according to that way of computing it there was a loss on the year's business of \$24,430.61? A.—Yes.

Q.—That is caused by the necessity for the reserve which you are required to put up, you say? A.—Yes.

Q.—I will leave attached to that statement certain schedules which are attached to show how some particular items in this account are made up? A.—Yes (Exhibit 659.)

Q.—I will put in also a statement showing the premiums paid each year from 1897 to date, with respect to both participating and non-participating business of the company. (Exhibit 660.) Then referring to this exhibit it would appear as if down to a certain date, say 1900, you were endeavoring to write as much non-participating business as you did participating? A.—New business.

Q.—For instance in 1900 you wrote \$23,000 of non-participating business and \$24,000 participating? A.—Yes.

Q.—That feature seems to have entirely changed by the year 1905. In that year you wrote only \$4,000 of non-participating and \$23,000 of participating? A.—Those were the new premiums.

Q.—Does that indicate any change in the management as to the desire to write non-participating business as compared with participating? A.—No, I do not think so. It is the choice of the agents probably.

Q.—Surely that cannot be? A.—I think in those years that is due to some large payment.

Q.—It cannot be in both those years? A.—It must include all the large payments.

Q.—You say where there is a very large amount of new premiums for

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non-participating business that it is due to some special premiums paid? A.—Yes.

Q.—And does not indicate any trend of business? A.—No. At the present time about 20 per cent. of our business is non-participating. Our business this year has been larger in the non-participating business.

Q.—Do you pay your agents as well for the non-participating as for the participating? A.—No, because the loading is not so high.

Q.—There is not the amount added for expenses? A.—No.

MR. TILLEY: Mr. Burke is the president of the Canadian Life Insurance Officers Association, and I do not propose at this time to ask him anything with regard to that branch of the enquiry, but it will be left to be completed at Ottawa when we finish up that part of the work, and as to the Royal Victoria, that is all I care to ask him at the present time, reserving the right to supplement it later.

MR. GEARY: I have no questions.

JUDGE MAC TAVISH: Then there is nothing further for to-day. We will adjourn until Wednesday morning at 11 o'clock in Ottawa, to proceed with the enquiry into the Independent Order of Foresters.

MR. SHEPLEY: We hope to be able to proceed with that at that time.

JUDGE MAC TAVISH: And if not then something else.

MR. SHEPLEY: Yes, we will be ready to go on with something else.

The Commission adjourned at 3.30 Friday, October 26th, to meet in Ottawa on Wednesday, October 31st, at 11 a. m.

NINETY-THIRD DAY.

MORNING SESSION.

Ottawa, Monday, 5th November, 1906.

INDEPENDENT ORDER OF FORESTERS.—*Resumed.*

MR. SHEPLEY: With your Honours' permission this morning we will go on with the examination of a witness or witnesses in the matter of the Foresters, having regard to some transactions in land of the Union Trust Company. I ought to explain that we shall be a little crippled during the first few hours by reason of the fact that witnesses from a distance who are here have not yet been able to

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(Mr. James W. Bettles, Ex'd.)

communicate with me, so that I may be in a position to shorten the matter by knowing in advance generally what the account is to be, and I am going to ask your Honours to be indulgent with me until we get running smoothly in that respect.

JUDGE MAC TAVISH: Yes.

JAMES W. BETTES, sworn. Examined by

MR. TILLEY: Q.—What position do you occupy in the Ontario, Manitoba and Western Land Company? A.—Managing director.

Q.—And how long have you been in that position? A.—Nearly four years, since the organization of the company.

Q.—Since the organization of the company, and it is a company organized for what purpose? A.—The purchase and sale of lands.

Q.—In any particular district? A.—The Northwest.

Q.—In the Canadian Northwest? A.—Yes.

Q.—Then you were the manager of it in 1903? A.—Yes.

Q.—And I suppose it follows that you are a person that can speak of the transaction that the company had with the Union Trust Company in that year? A.—Yes.

Q.—What lands were comprised in the sale that your company made to the Union Trust Company? A.—Townships 45 and 46, range 14, west of the second meridian.

Q.—Two townships comprising about how many acres? A.—40,960 acres, both odd and even numbered sections.

Q.—Was that by survey or approximation? A.—Approximation, except the Hudson Bay lands, of course.

Q.—Taking the Hudson Bay lands out of the townships left the number of acres you have mentioned? A.—Yes.

Q.—And has that acreage been demonstrated since by survey? A.—Well, yes; it has been.

Q.—And is there the acreage you have mentioned? A.—There is a deficiency in acreage? A.—Yes.

Q.—But it approximates 40,900 acres? A.—Yes.

Q.—Did you carry on the negotiations for the sale on behalf of your company? A.—Yes, sir.

Q.—Did you act entirely in your company's behalf or was there any other person in your company who assisted in the negotiation? A.—

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Well, it was largely done by myself. I consulted with the president of the company.

Q.—Who is the president of the company? A.—The Honourable Mr. Colin Campbell, Attorney General.

Q.—But in negotiating with the purchasers you would carry on the transaction entirely? A.—Yes.

Q.—How long had you held the lands? A.—I think we purchased them in August. I think it was in August.

Q.—Did you have them under agreement or had you bought them outright? A.—We had bought them outright and under an agreement of sale subject to Canadian Northern lands contract.

Q.—You had bought them from the Canadian Northern. You had not paid the full purchase money at that time? A.—No, not the full purchase money.

Q.—So that you had no conveyance, but you were holding them under the agreement with the Canadian Northern? A.—Well, the agreement was with the doctor and A. F. Fraser.

Q.—The agreement was with the party from whom you bought? A.—Yes.

Q.—You bought out the interests of the person who entered into the original arrangement with the Canadian Northern? A.—Yes, we bought subject to that.

Q.—Do you mind saying what price your company paid for the lands? A.—Well, if you insist on it, I suppose there is no—

Q.—I suppose you have got your profit in hand now? A.—Yes, we have got our profit. I bought them very cheap. I bought them at \$3.75 an acre.

Q.—You bought them at \$3.75 an acre? A.—Yes.

Q.—At what date did you buy them? A.—It was in August some time.

Q.—What year? A.—1903.

Q.—In August, 1903, you purchased the lands at \$3.75 per acre? A.—Yes.

Q.—How soon after buying the lands did you enter into negotiations with the Union Trust Company or any person connected with the Union Trust Company? A.—It was shortly after. It was some time in September when we got it all closed up.

Q.—That is within a month after; is it fair to say as soon as you had the transaction completed? A.—When

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it was closed fairly or fairly well closed, I started to try to sell them.

Q.—Then what step did you take with the object of making sale? A.—I had done several things, but as far as the Union Trust Company was concerned I had written to one of our directors, who was a director of the Union Trust Company.

Q.—That is there was one person who was common to both boards of directors? A.—Yes.

Q.—Who was that? A.—Well, is that material?

Q.—I am afraid so. I shall have to ask you to answer it. A.—There is only one.

Q.—Was there only one person common to both boards? A.—Yes.

Q.—Then it would be very easy to ascertain; so I suppose there is all the more reason for telling it. A.—Well, there is only one reason why I should not tell. He is incapacitated now, as is very well known.

Q.—You are referring to Colonel McGillivray? A.—Yes.

Q.—You wrote to Mr. McGillivray advising him that you had the lands for sale? A.—Yes, he knew we were negotiating for them.

Q.—Have you a copy of that letter here? A.—No, I have not.

Q.—Did you write to him as an officer of your company, or as the officer or director of a probable purchaser? A.—I had in mind the purchase of the lands by the Union Trust Company.

Q.—You had that in mind at the time you wrote them? A.—Yes.

Q.—Now you mentioned the fact that you had offered the lands to other parties? A.—Yes, I had.

Q.—Had you made any distinct offers of sale quoting the prices to other people? A.—I do not call them to mind just now. I do not call those offers to mind. I have no doubt I did quote prices.

Q.—What price did you quote to others? A.—Well, \$5 an acre was our price, with a commission of 25 cents an acre.

Q.—Five dollars an acre was your price with a commission of 25 cents an acre? A.—Yes.

Q.—A commission of 25 cents an acre would amount roughly to \$10,000? A.—Yes.

Q.—Was it a distinct offer of \$10,000, or was it 25 cents an acre you were treating as a commission? A.—Well, I think it was 25 cents an acre. However, when we came to close the

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deal with the person who was negotiating with us, there was a distinct offer of \$10,000.

Q.—That is when you came to terms, the sum of \$10,000 was mentioned? A.—Yes.

Q.—As being the commission payable? A.—Yes.

Q.—That is the price of \$5 you were asking would net you \$1 profit per acre? A.—\$4.75 would be the net price.

Q.—And that would bring you a profit of \$1 an acre? A.—Yes.

Q.—Was that the only offer you quoted to other possible purchasers? A.—Well, as I say, I have not that in my mind. I expect it was. I believe it was. I think at any time I was willing to sell the lands at that price.

Q.—At any time were you willing to sell the lands at a lower price? A.—No, not at a lower price.

Q.—Can you say that you had not offered to take less? A.—Yes.

Q.—Less than what would net you \$4.75 per acre? A.—I think I may have offered to take more, but never less. The American dealer would want a larger commission than the Canadian dealer.

Q.—Is it right to say that any offers you made were expected to yield you \$4.75 per acre? A.—Yes. That is the lowest price we would take for the land.

Q.—And you never quoted any price that would bring a lower result for the company that you represented? A.—No, never.

Q.—Was that the price at which lands in that locality were selling at the time? A.—Yes, the lands were worth that money.

Q.—Were they cleared lands? A.—Not all cleared; there was some open and some scrub.

Q.—What do you mean by saying there was some scrub? A.—Well, there was some scrub land, lands that were open and some scrub.

Q.—You used that expression very freely, but to the uninitiated what do you mean by saying scrub lands? A.—It means some open lands fit for cultivation, and some of it that would have scrub on.

Q.—And have to be cleared? A.—And have to be cleared. Some of it they plough through and some of it they have to clear.

Q.—Some of these would have to be cleared? A.—Yes, some of it would have to be cleared.

Q.—Can you say how much? A.—I could not off-hand now.

Q.—Well approximately how much? A.—Well, I should think there was a little bit that would at one corner of the township have some timber on it, and then I should think probably the balance of the land, half of it, could be ploughed, not half open but probably a third open and a third—half of the balance could be ploughed without scrubbing, and then the balance would have to be scrubbed or cut out—cut down.

Q.—You say half of it was cleared? A.—No, about a third of it, I should think, was cleared.

Q.—One-third of it cleared? A.—Yes.

Q.—One-half of the balance could be ploughed as it was at the time? A.—Yes, sir; they are ploughing and scrubbing all down in some parts.

Q.—There was some scrub, but it could be ploughed? A.—Yes.

MR. LANGMUIR: When you say cleared you mean prairie land? A.—Yes.

Q.—And the other was prairie scrub? A.—Yes.

MR. TILLEY: Q.—And about a third of it then would have to be cleared? A.—Yes, I think so.

Q.—Would that be an expensive operation? A.—Oh, it all depends on the facilities for clearing; take a steam plough and they go through a very large scrub, or enough horses on a plough and they will go through a very large scrub. It all depends on the facilities a man has for clearing.

Q.—Then do you say for that class of land, the class you were selling, that \$5 was the prevailing price at that time? A.—Yes.

Q.—Although you bought it within a month? A.—Yes, I bought it at the lowest value.

Q.—At \$3.75? A.—Yes.

Q.—And do you know how long the person from whom you bought it held it? A.—I do not, but he had it sold and parties failed to make the payments, and it came back on his hands through the failure to carry through the first transaction, and it was a forced sale when I bought it, and I bought it below its price.

Q.—In the letter that you wrote to Colonel McGillivray did you quote a price? A.—I do not think I did. I do not think I quoted a price to him. I think my impression is that Colonel McGillivray knew what I was asking for the land.

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Q.—How? A.—Because he had been there during the time that I was negotiating for them, in fact after I had closed the deal I had seen the Colonel.

Q.—After you had closed the purchase you had had several conversations with him? A.—Yes.

Q.—In Winnipeg? A.—Yes. I would not be sure that I told the Colonel the price, but my impression is that the Colonel knew what I was asking for the lands.

Q.—At any rate he knew what you were paying? A.—Yes.

Q.—And your discussion with him in Winnipeg I suppose would be with him as a director of your own company? A.—Yes.

Q.—Reporting the transactions you had on foot? A.—Yes.

Q.—That would be in the month of August, 1903? A.—No, I think that was in September I was talking with the Colonel.

Q.—At the time you were talking to Colonel McGillivray in Winnipeg? A.—I won't swear positively that I saw the Colonel after I closed the purchase of the lands, but my impression is that I did, I won't swear positively though. My impression is that I saw the Colonel after I purchased the land. I won't say that I did see him.

Q.—And if you cannot say you had a discussion with him, I suppose you cannot tell me at all what the discussion was? A.—No.

Q.—But your impression is that he was conversant with the transaction you had on foot? A.—Yes.

Q.—And if he was conversant with it it must have been by verbal discussion between you? A.—Yes, or through my letter.

Q.—Did you look for the letters that you sent to him? A.—No, I did not. I did not know that was coming up.

Q.—You did not think that that would be discussed? A.—No.

Q.—Did you receive any reply from him to that letter? A.—No.

Q.—You are quite clear that letter was an intimation that his company might buy? A.—Yes.

Q.—The Union Trust Company? A.—I was hoping they would.

Q.—Had you had any discussion with him before which led you to believe that they were open to buy lands in the Northwest? Did you know that they were buying lands or in that business at the time? A.—I do not know that I knew that they were buying. I knew that they were contemplating buying. I do not know that I knew

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(Mr. James W. Bettes, Ex'd.)

that they had bought any lands in the Northwest.

Q.—And you knew that from Colonel McGillivray? A.—Yes. I think I knew it from the Colonel. I am pretty sure.

Q.—Did you get any reply from him to that letter? A.—No, I got no reply.

Q.—Did you have any further negotiation with Colonel McGillivray about the lands? A.—No.

Q.—No further correspondence? A.—No.

Q.—And was the transaction ever discussed between you and Colonel McGillivray after that time? A.—No.

Q.—That ends his connection with it? A.—Yes.

Q.—So far as his company or you are concerned? A.—Yes, until after the purchase some months after.

Q.—What next took place with regard to the sale? A.—Well, Mr. Pritchard came to my office and inquired.

Q.—Mr. A. W. Pritchard? A.—Mr. A. W. Pritchard.

Q.—Where does he live? A.—He lives in Winnipeg.

Q.—And what took place between you? A.—He asked me the price of lands and I told him our price.

Q.—What price did you tell him? A.—\$5 an acre with \$10,000 commission. I am not sure whether I said at that time that it was \$10,000, or whether I said it was 25 cents an acre. However we finally agreed that \$10,000 was to be the commission.

Q.—Did you connect Mr. Pritchard with the Union Trust Company at that time? A.—I am not certain whether Mr. Pritchard at that time told me that he was buying for the Union Trust or not. However the offer was accepted and I knew immediately it was the Union Trust Company who were buying.

Q.—How soon after you first saw Mr. Pritchard was the offer accepted? A.—I think almost immediately. I do not think there was any hesitation about it on my part. That is my remembrance.

Q.—What do you mean, hesitation on your part? Was he there ready to make a proposition to you? A.—I think Mr. Pritchard made me a proposition as to the price and it was accepted. Mr. Pritchard may have communicated with some person afterwards. I do not really remember now whether Mr. Pritchard did or not.

Q.—I want you to brush up your memory on that as well as you can. I want to know whether when Mr.

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Pritchard came to you at that time whether he appeared to be ready to close and enter into an agreement with you? A.—I have not recalled that to my mind and I am not sure whether Mr. Pritchard was ready to close or not. I rather thing however in recalling it that Mr. Pritchard did communicate, I think, by wire; any way it was closed almost immediately, very shortly.

Q.—When you say very shortly do you mean within two or three days at any rate? A.—I think so.

Q.—You think that the negotiations from the time you met Mr. Pritchard until the transaction was closed did not take more than two or three days? A.—I do not think it. I have not got that in my mind. It is three years ago and I have not got that in my mind clear, whether it was a week or whether it was—

Q.—Or whether it was all on the same day? A.—Yes.

Q.—Might it have been all on the same day? A.—I would hardly think it was the same day.

Q.—You think it would be hardly possible? A.—I am not clear on that at all.

Q.—Did you make him an offer by letter? A.—No, a verbal offer.

Q.—There was no written communication passed between you at all? A.—I do not think there was. Mr. Pritchard is here. We had not conversed about it.

Q.—We will be able to get his story. I was trying to get your recollection now to save bringing you back if he was not able to give us that information. Then is it your recollection that Mr. Pritchard made an offer or you made Mr. Pritchard an offer? A.—I think I told Mr. Pritchard the price.

Q.—Is it your recollection that he did not know the price until he came to you? A.—I would not say whether I had had any conversation with Mr. Pritchard previously or not. I do not think I had any conversation with Mr. Pritchard previous to his coming in to enquire about it.

Q.—You say that if he got the price he must have got it from some person else who was likely to buy, rather than from you? A.—Yes. Mr. Pritchard and I frequently met. He knew I had the land, but I do not think we ever discussed the land until Mr. Pritchard came in to make the purchase. I do not think we ever discussed it.

Q.—Then the agreement that was signed is dated 15th October, 1903. Was that drawn up by you? A.—No.

Q.—Who was it drawn up by? A.—Well I think that the agreement that

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was finally signed was drawn by the Union Trust. We however did have an agreement drawn and sent to the Union Trust, and I think that agreement is a compromise between the two agreements.

Q.—You drafted that agreement and sent it to the Union Trust Company, and the agreement that was ultimately signed would be your agreement with some modifications and amendments made by the Union Trust Company? A.—Yes.

Q.—And the whole agreement re-typed by the Union Trust Company? A.—Yes, I think that is really what took place.

Q.—Can you say how long before the 15th October, the date of the agreement, you had verbally arranged the transaction with Mr. Pritchard? A.—It was only shortly before. I could not say when. I had no correspondence with the Union Trust.

Q.—Do you say that you had no correspondence with the Union Trust at any time? A.—Not till long subsequently.

Q.—I mean in the course of negotiations for the purchase? A.—No.

Q.—Did you have any correspondence with Mr. Foster, the manager of the Union Trust Company? A.—No.

Q.—Mr. Foster said that the negotiations for the purchase took place between himself and you? A.—No, Mr. Foster was in error when he said that.

Q.—You say Mr. Foster was in error then? A.—Yes.

Q.—Your statement is that there were no negotiations at all between you and Foster? A.—No.

Q.—Did you have any discussion with him or write him any letters? A.—I did not.

Q.—Did any person connected with your company? A.—I rather think our solicitors wrote him respecting the matter of survey fees.

Q.—When would that come up? A.—After the sale was effected the question of survey fees came in I think, and I think our solicitor had a discussion with Mr. Foster on that subject.

Q.—You mean by that that the solicitors had correspondence with him in working out the details of the agreement after it was entered into? A.—After it was entered into.

Q.—But what I am speaking of now is the negotiations which took place

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leading up to the agreement? A.—I had no correspondence or did not negotiate with Mr. Foster at all.

Q.—Your whole correspondence was with Mr. Pritchard? A.—Yes.

Q.—Except the letter that you wrote to Colonel McGillivray? A.—Yes.

Q.—Did Mr. Pritchard attend to the obtaining of the signature of the Union Trust Company? A.—No, I think our solicitors did that entirely.

Q.—That is as soon as the matter was put in their hands to prepare the agreement, you heard nothing more of it until you got the agreement back? A.—No.

Q.—Then you remember the terms of the agreement. It provides that the purchase price of \$204,800 should be paid in instalments, and the first instalment was payable under the agreement in cash and amounted to \$25,000? A.—Yes.

Q.—Now you received I suppose, the cheque for \$20,000? A.—Yes.

Q.—Which is marked exhibit 563? A.—Yes.

Q.—Cheque of the Union Trust Company in favor of the Ontario, Manitoba and Western Land Company, Limited, you received that cheque? A.—Yes, I received that cheque.

Q.—On what date did you receive it? A.—It is credited on the 6th November I think.

Q.—Where is the statement that you have that shown in? A.—I left it with you.

Q.—Does that statement show the account as it stands in your books? A.—Yes.

Q.—That is a correct copy? A.—Yes.

Q.—Of the ledger account? A.—Yes. (Exhibit 661).

Q.—That statement shows a credit on 6th November of the first payment on account, of \$20,000, and on the same date is that item by commission allowed as per A. W. Pritchard's order, November 5th, 1903, \$5,000? A.—Yes.

Q.—When did you first know that this cheque for the cash payment was to be \$20,000 instead of \$25,000 which your agreement called for? A.—Well, I knew there was a \$5,000 deposit on the land in one of the banks in Toronto. I think the Bank of Ottawa. The \$5,000 deposit was made on the land, I got to know after the transaction—

Q.—I do not quite follow what you mean by that, having regard to the

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(Mr. James W. Bettes, Ex'd.)

evidence that has been given. When do you say that that \$5,000 deposit was made? A.—Well, it was made when the bargain was closed.

Q.—That is the 15th October? A.—Yes, it was said to be made.

Q.—Who told you that it was made? A.—I think our solicitors.

Q.—Your solicitors told you? A.—Yes.

Q.—That would be before the \$25,000 was payable? A.—Yes, that was a cash deposit.

Q.—Rather on account of the \$25,000? A.—Yes.

Q.—To show good faith? A.—Yes.

Q.—It is not a sum that is provided for in the agreement? A.—No.

Q.—The agreement provided for \$25,000 being paid, but that \$25,000 was not paid at once? A.—No.

Q.—Not until the 6th of the following month? A.—No.

Q.—Do you know why that delay happened? A.—No, I do not know the reason of the delay. I suppose in getting the agreement adjusted satisfactorily to those parties—

Q.—Getting the terms settled? A.—Yes.

Q.—Do you suggest that although the agreement is dated 15th October that it was not signed until the 1st or 5th November? A.—Yes.

Q.—And you understood from your solicitors that a deposit of \$5,000 had been made in some bank in Toronto? A.—Yes.

Q.—To whose credit? A.—I think it was to the credit of the Ontario, Manitoba and Western Land Company.

Q.—And in what bank? A.—My remembrance is the Bank of Ottawa, I am not sure.

Q.—Were you shown any deposit receipt for it? A.—No.

Q.—Who were your solicitors that were acting for the Ontario and Manitoba Company? A.—Campbell and Crawford.

Q.—And you understood that from Campbell & Crawford? A.—Yes. Well I think Campbell & Pitblado, I think the firm had changed to Campbell & Pitblado at the time.

Q.—Have you ever ascertained whether that deposit was made as you understood it was made? A.—Well, I knew that it satisfied the \$5,000 commission.

Q.—That is to say you knew that that \$5,000 was taken in satisfaction

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of a portion of the \$10,000 you were to pay by way of commission? A.—Yes.

Q.—Now then, there is a cheque also part of that same exhibit 563, for \$5,000. That cheque is not dated until December 15th? A.—I see it is the Standard Bank, not the Bank of Ottawa.

Q.—Do you think that it was the Standard Bank that you were told? A.—It is likely. I have no doubt it was.

Q.—You see that cheque is not dated until another month? A.—Yes, I see that.

Q.—Apparently the \$5,000 was not deposited? A.—It seems not.

Q.—That is as far as these cheques, which are the cheques that are given to us referring to it, as far as these cheques indicated the \$5,000 was not deposited? A.—It seems not.

Q.—As you understand that it was? A.—Yes.

Q.—Did you ask your solicitors for the correspondence they had relating to this matter before you left Winnipeg? A.—No, I did not.

Q.—Then you were not surprised when you got a cheque for \$20,000, is that what you say, instead of \$25,000? A.—Yes.

Q.—Because you expected there would be another \$5,000 to the credit of your company in Toronto? A.—Yes.

Q.—Then did you make enquiry about that? A.—No, I do not think I did. The Union Trust Company were perfectly good, and I do not think I did.

Q.—And you were satisfied with their financial responsibility? A.—Yes, I do not think I made any enquiry.

Q.—How did you get the cheque for \$20,000? By mail, or was it handed to you? A.—I think it came to me by mail.

Q.—By mail? A.—I think so.

Q.—Did you see Mr. Pritchard about it? A.—No. It might have come direct to our solicitors. I would not be real sure. Any way I have no letter on file coming from the Union Trust Company with the cheque, but if I had I might have handed it to the solicitors, and I am not sure whether it came to me from the solicitors.

Q.—And you did not go back to your solicitors before leaving Winnipeg to ask them for any papers they had? A.—No, I did not.

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(Mr. James W. Bettles, Ex'd.)

Q.—So that you are unable to say? A.—Yes.

Q.—How was the transaction carried through so as to give your company credit for the \$5,000 which was not covered by that cheque? A.—We got an order from Mr. Pritchard to pay \$5,000 to the Hon. George E. Foster or the Union Trust Company.

Q.—You produce an order dated November 5th, 1903. The first seems to be receipt, and then attached to that is an order. These two will be one exhibit. (Exhibit 662.) The first one reads in this way: "Received from the Ontario, Manitoba and Northwestern Land Company the sum of \$10,000 in full of commission on sale of lands in townships 45 and 46, range 14, west of the second meridian; \$5,000 of the above being paid by you to the Hon. George E. Foster or the Union Trust Company, I authorize you to give a receipt to the Union Trust Company for the \$5,000 for which I have given you the order, such \$5,000 being part of the cash deposit under the said agreement." That is signed by A. W. Pritchard, and the attached document reads in this way: "Winnipeg, November 5th, 1903; To the Ontario, Manitoba and Northwestern Land Company: Kindly pay \$5,000 of the commission due me on the sale of lands of townships 45 and 46 to the Hon. George E. Foster or the Union Trust Company, and this will be your authority for so doing." So that as a result of those two orders, or the receipt of the order, you treated that \$5,000 which you then believed had been deposited in some bank in Toronto to your credit—you treated that as part of Mr. Pritchard's commission? A.—Yes.

Q.—Had you had any negotiations at all by way of an attempt to lower your price of \$5.00, less commission, which you were asking? A.—I do not think there was any dickering about it.

Q.—No dickering at all? A.—I think I was very firm in the price.

Q.—At any rate whether it was from your manner or any other cause, there was no attempt to cut you down? A.—No.

Q.—So that that \$5,000 which was to be paid to Mr. Foster, or the Union Trust Company, as the order shows, was not, so far as you were concerned in any way by way of reduction of price? A.—It was the commission.

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Q.—Who drew the receipt and the order which you have just put in?
A.—Well, I am not sure. It was done in my presence, I think, in my solicitor's office.

Q.—You were in your solicitor's office? A.—Yes.

Q.—Was Mr. Pritchard there?
A.—I am not sure whether Mr. Pritchard was there or not. We were getting ready to close it up any way, and I know we had our order. I was present when it was made.

Q.—Then it was not a document prepared by Mr. Pritchard? A.—No.

Q.—Or the Union Trust Company?
A.—No.

Q.—It was prepared from your standpoint? A.—Yes, to protect ourselves.

Q.—Just to protect yourselves?
A.—Yes.

Q.—Does that explain why the name of the Union Trust Company and Foster are both used in the document? A.—Yes, I think that explains it.

Q.—You did not know, or did you know— A.—I did not know.

Q.—Which one was getting the \$5,000? A.—I did not know that at all.

Q.—Did Pritchard tell you? A.—No.

Q.—Did you ask? A.—No.

Q.—Is it not customary to ask where the commissions are going?
A.—No.

Q.—It is not customary to make any enquiry so long as you are getting your price? A.—I think we must have got to know it or else we would not have drawn the order in that way.

Q.—You knew that was remaining with the Union Trust Company or going to Mr. Foster, hence the order? A.—Yes.

Q.—Then, so far as you were concerned, that \$5,000 was treated as one-half of what you were to pay Mr. Pritchard? A.—Yes.

Q.—With Mr. Pritchard's consent?
A.—Yes.

Q.—And as you have said, there was no attempt, so far as you remember, by the purchasers to get the land at a less price than what you concluded? A.—No.

Q.—And no complaint of your price? A.—No.

Q.—It seems to be a fairly easy sale? A.—They were recognized as cheap lands.

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(Mr. James W. Bettes, Ex'd.)

Q.—Then did you pay Mr. Pritchard the balance of the \$10,000? A.—Yes.

Q.—You gave him on the same date, November 5th, 1903, a cheque for \$3,000, payable to W. A. Pritchard—I understand that is a mistake for A. W. Pritchard? A.—Yes.

Q.—You thought his initials were W. A.? A.—Yes.

Q.—\$3,000; it is marked commission, townships 45 and 46, range 14, west second, and on the same date you gave him a promissory note payable on or before the 15th April, 1904, at the Bank of Hamilton in Winnipeg, for \$2,000, with interest at 6 per cent.? A.—Yes.

Q.—And, of course, that note has been paid and now comes from your custody? A.—Yes. (Exhibit 663.)

Q.—Then that cheque and the note forms one-half of the commission, and this cheque which is made out by the Union Trust Company to the Standard Bank to the credit of George E. Foster, dated November 15th, 1903, for \$5,000, so far as you are concerned, is correctly marked when it says on account of commission. Did you share in the commission in any way? A.—No, not a cent, unfortunately.

Q.—Either the Toronto half or the Winnipeg half? A.—Neither half in the deal.

Q.—You had no arrangement with Mr. Pritchard whereby you were to get part of his commission? A.—None at all. I did not get any of it. I did not ask for any of it. I did not expect any of it, and did not get any of it.

Q.—Do you know whether any other persons did get any part of that commission? A.—I do not.

Q.—Other than what we have seen already? A.—I do not.

Q.—You do not know anything about that? A.—No.

Q.—What is the capital stock of the Ontario, Manitoba and Western Land Company? A.—About \$123,000, my remembrance is.

Q.—That is the paid-up capital of that company? A.—Yes.

Q.—\$123,000 about? A.—At that time it was not so large. That is one of my reasons for selling the land.

Q.—In 1903 what was it? A.—I think at the time I purchased these lands it was only about \$60,000, my remembrance is.

Q.—How old was your company at that time? A.—9th March.

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Q.—It was incorporated 9th March? A.—1903.

Q.—So that it was only a few months then in business? A.—Yes.

Q.—What part of that capital stock did Colonel McGillivray hold? A.—I think it is \$2,000.

Q.—Did he hold at that time \$2,000 out of the sixty? A.—Not paid up. The subscribed capital then was more than \$60,000, of course, but the paid up capital, I think at that time they were making calls on the capital stock; the Colonel's stock, I think, was \$2,000.

Q.—What I would like to know is just what interest he had in the company in the way of shares. A.—I should think the stock was probably half paid at that time.

Q.—And he probably had one out of sixty, is that a fair percentage? A.—I think his stock would be half paid, yes, one out of sixty I should think.

Q.—That would represent \$2,000 stock with about \$1,000 paid? A.—Yes, about that.

Q.—Is he still a shareholder in your company? A.—Yes.

Q.—The same amount? A.—The stock is paid up.

Q.—He holds the same amount, but his stock is now paid up? A.—Yes.

Q.—He was then and is now, is he, a director or has he ceased to be a director? A.—I don't think the Colonel is a director now.

Q.—He was until recently? A.—Yes, up to recently. I won't swear whether Colonel McGillivray is a director yet or not. We have an executive.

Q.—The business is carried on through the executive? A.—Yes, very largely.

Q.—And just what position matters are in with respect to the personnel of the board of directors, you don't care to say at the present time? A.—No.

Q.—You cannot say at the present time, I suppose? A.—I cannot say whether Colonel McGillivray is there or not; I don't think he is. That is my impression. I have two boards and I cannot keep track of them.

JUDGE MAC TAVISH: Only two? A.—Yes.

MR. SHEPLEY: If your Honours will let me have the rest of the morning for interviewing witnesses, I think we will be facilitating in the end.

JUDGE MAC TAVISH: You will be ready at what time, Mr. Shepley??

MR. SHEPLEY: I hope at two o'clock.

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JUDGE MAC TAVISH: Then we will adjourn till two o'clock.

(At noon adjourned to 2 p. m.)

AFTERNOON SESSION.

Ottawa, 5th November, 1906.

(Resumed at 2 p. m.)

HENRY W. WHITLA sworn, examined by

MR. TILLEY: Q.—Mr. Whitla, you are a solicitor, practising in Winnipeg? A.—Yes.

Q.—And a member of what firm there? A.—Macdonald, Haggart & Whitla.

Q.—You were a party to an agreement with the Union Trust Company for the sale of some lands to the Union Trust Company? A.—I was.

Q.—What lands were comprised in that transaction? A.—Do you wish me to give them in detail?

Q.—It will do if you can describe them by some general description. A.—Swan River lands, they were generally known as.

Q.—Comprising how many acres? A.—9,920 to the best of my knowledge.

Q.—Did you hold those lands in your own right, beneficially, or were you trustee for some other party? A.—I had no personal interest in the lands.

Q.—Then you held them as trustee merely? A.—Yes.

Q.—When did you first take the conveyance of the lands or a transfer or any agreement under which they were held? A.—To the best of my recollection it was in the month of May, 1902. I would like to be certain of that; yes, in the month of May, 1902.

Q.—And from whom did you acquire them, by direct agreement from the railway? A.—From the Canadian Northern Railway Company Land Department.

Q.—That is, you entered into an agreement for the purchase of the lands from the Canadian Northern in 1902? A.—Yes.

Q.—Were they all the lands that were comprised in that agreement that you entered into at that time? A.—I was supposed to have purchased from the Canadian Northern Railway Company about 10,000 acres. I did not get the full block; I think it was 320 acres that I did not get until the year following.

Q.—So that the lands that you ultimately agreed to sell to the Union

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Trust Company were substantially the whole block of lands that you got from the Canadian Northern? A.—Yes. I had sold one quarter section before I had entered into the agreement.

Q.—You had sold a quarter section to—— A.—A private party.

Q.—Not in any way connected with the Union Trust Company or the I. O. F.? A.—That is correct.

Q.—For whom did you take that agreement from the Canadian Northern in 1902? A.—I suppose it is your Honours' wish that although I was acting as solicitor and trustee, I should disclose everything connected with this?

JUDGE MAC TAVISH: Yes, I think so, Mr. Whitla.

A.—I originally took these lands from the Canadian Northern Railway Company for one Gordon, and for the Hon. R. P. Roblin, in equal shares.

MR. TILLEY: Q.—What Mr. Gordon was that? A.—C. R. Gordon, who was in the real estate business at that time.

Q.—In Winnipeg? A.—Yes.

Q.—Were you his solicitor at that time? A.—Yes I had acted for him at that time.

Q.—You had been acting for him in some of his transactions and he negotiated the arrangement with the Canadian Northern, did he? A.—My impression is that he came to me and informed me that he had an option on a block of Canadian Northern lands. I don't recollect that he informed me just at the first interview that Mr. Roblin was taking a half interest with him, but at all events it was intimated to me that the lands should be put in my name. I knew of reasons why Gordon should not have them in his name and I acquiesced in that.

Q.—You mean to say that personal reasons relating to Mr. Gordon? A.—His financial standing.

Q.—His financial condition was such that it was unsafe to have them in his own name? Is that what you mean? A.—Yes.

Q.—And for that reason the agreement was made with you so that that fact would not appear? A.—Yes.

Q.—Then, do you say that at that time you knew that the Hon. Mr. Roblin was interested with Mr. Gordon? A.—Evidently before I had concluded any agreement with the Canadian Northern I knew, I must have known, that Mr. Roblin was, although I have no recollection of any interview. The probability is that it would be a telephone communication.

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(Mr. Henry W. Whitla, Ex'd.)

Q.—From Mr. Gordon? A.—Yes.

Q.—Or possibly from Mr. Roblin? A.—Possibly so.

Q.—Were you solicitor for Mr. Roblin, or your firm? A.—I don't know whether I had acted in any matters previous to this or not. The chances are I had.

Q.—And either at the time you received your instructions or shortly afterwards, you got the knowledge that these two gentlemen were interested? A.—Yes, because the responsibility was thrown upon me to conduct the negotiations and to collect the necessary amounts from each party, which I did.

Q.—To make the payments to the Canadian Northern? A.—Yes.

Q.—And it was then at any rate, if not before, that you found they were contributing equally? A.—In equal shares.

Q.—At what price were you acquiring the lands from the Canadian Northern? A.—The Canadian Northern agreed to sell the lands to me at an average price of \$3.10 per acre, according to the usual terms and conditions of payment as shown in their contract.

Q.—That is the first letter, is it? A.—This is the initial agreement I had with Mr. Theodore A. Burrows, the land commissioner of the Canadian Northern at that time, embodying the terms of the subsequent purchase.

Q.—The first payment was \$1,500? A.—That secured the option for 10 or 11 days, as embodied in that letter.

Q.—I see that the receipt dated May 3rd, 1902, acknowledged the receipt of \$1,500 on account of the purchase of a 10,000 acre block in the Swan River District, selected by Mr. C. R. Gordon on your behalf. 8,000 acres had been selected and 2,000 more were to be selected at that date. A.—Yes.

Q.—And the balance over the \$1,500 was to be paid in yearly instalments. The balance above the \$1,500 required to make the first payment on the 62 quarter sections, namely \$1,575, was to be paid in 11 days. A different contract of sale to be made for each quarter section on the regular form, a copy of which is attached. A.—Yes, that is correct. My recollection of it was that I simply sent the money down to Mr. Burrows on account of the land as arranged with him by Gordon, and that is the receipt I obtained from him.

Q.—Over what period of time were the payments to be made on account of the purchase? A.—Well, I think each quarter section had a separate

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contract and the model contract attached to the original receipt called for yearly payments of \$49.60 on account of principal spread over nine years.

Q.—And that form of contract would apply to the other quarter sections? A.—Yes, the lands are described also there.

Q.—I will put in the original receipt with the form of contract that you were to enter into; attached to that is the schedule of the lands referred to (Exhibit 664.) Then between 1902 and the time you entered into the contract with the Union Trust Company, were any efforts made to sell those lands? A.—Yes, there were efforts made by Mr. Roblin. I did not consider it my duty as trustee to endeavor to sell lands. I made no effort myself.

Q.—Then it is right to say that the active negotiations for the sale of the lands were not carried on by you, but were carried on by your clients? A.—That is correct.

Q.—Did Mr. Gordon continue to be entitled to a half interest in the lands down to the time they were sold to the Union Trust Company? A.—No.

Q.—At what date did he pass out of the transaction? A.—On or about the 18th August, 1902.

Q.—And what was done with his interest in the lands? A.—Mr. Gordon, I believe, found difficulty in financing at this time and the result was that he and Mr. Roblin came into my office and I was informed that Gordon was selling out his interest in the lands to Mr. Roblin.

Q.—And was that completed? A.—I think I participated in figuring out as to how matters stood between them, adjusting the different payments and an advance was fixed on, that is an advance per acre, at which Gordon should sell out.

Q.—So Mr. Gordon dropped out of the transaction with some profit as between himself and Mr. Roblin, and Mr. Roblin assumed the whole contract? A.—Yes, I can give you the figures, I think, of the amount of money Mr. Gordon had in it, and the amount he received when he stepped out.

Q.—Yes? A.—I don't think that Mr. Gordon had more than \$1,500 cash in it at that time, and he received on the adjustment for his half interest, on the 18th August, \$4,583.20.

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Q.—That was a return of his money with the profit accrued? A.—Yes, the money came to me and when Gordon signed the proper release I paid it over to him.

Q.—Then from that time you held the lands for Mr. Roblin, only? A.—That is true.

Q.—Down to the time you entered into the agreement dated the 31st December, 1903, with the Union Trust Company? A.—Yes.

Q.—That agreement is already filed as Exhibit 562. Is it right to say that that is the only document that exists showing the contract or the arrangement between yourself and the Union Trust Company? A.—Yes I produce the duplicate copy of that. It is the only agreement I know of.

Q.—Tell me who it was that brought about that sale of the Swan River lands to the Union Trust Company? A.—I believe it was Mr. Pritchard.

Q.—Mr. A. W. Pritchard of Winnipeg? A.—Yes

Q.—Was he carrying on the negotiations under your direction or with your knowledge? A.—No, I did not know anything about it till the deal was practically concluded.

Q.—So that the transaction was carried through by Mr. Pritchard acting as an agent? A.—Yes.

Q.—Dealing with the Union Trust Company and at a certain time he brought in the papers to you? A.—Yes.

Q.—Or did Mr. Roblin bring them in? A.—Well now, I would not be sure of that. My impression is that it was Mr. Pritchard, although I would not be certain as to that.

Q.—Your best recollection is that Mr. Pritchard brought the papers in to you? A.—Yes, I think so.

Q.—And is it right to say that you had nothing to do with instructing Mr. Pritchard as to the price to ask or the terms that would be demanded? A.—No, I did not consider that I had anything to do with that.

Q.—Now, what papers did Mr. Pritchard bring in to you when he had concluded his arrangement? A.—He brought in a proposition from Mr. Foster and a copy of his letter in reply to Mr. Foster, and also a telegram from Mr. Foster which concluded the bargain.

Q.—If you will let me have the correspondence relating to that, we will keep it separate and make it one exhibit (Exhibit No. 665). The first letter you hand me is dated Decem-

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ber 23rd, 1903. Is that the first document that you have that relates in any way to the transaction with the Union Trust Company? A.—That is all I have any recollection of.

Q.—Nothing precedes that? A.—Not to my knowledge.

Q.—That is a letter dated December 23rd, 1903, from the Hon. George E. Foster to Mr. Pritchard. (Reads this letter). Then Mr. Pritchard's reply is dated Winnipeg, 28th December, 1903 (reads this letter). Then Mr. Foster's telegram to Mr. Pritchard follows, dated December 31st, 1903 (reads this telegram). Those letters and the telegram, you say, were brought in to you by Mr. Pritchard and show the arrangement that had been made with Mr. Foster? A.—Yes.

Q.—And apparently the offer made by Mr. Foster was not what Mr. Pritchard had been asking? A.—Evidently not.

Q.—Can you say how much it fell short of the price asked? A.—Well, I really did not know what price was being asked, but it seems to me it would be about \$5.50 an acre. I make that assertion because Mr. Roblin himself had been endeavoring to sell these lands and had employed a man to go to the United States to have them put up at auction, but it was a failure, and the price asked upon that occasion was \$5.50.

Q.—How long before was that negotiation? A.—June, 1903.

Q.—He had been asking then \$5.50? A.—Six months previously.

Q.—And the transaction had fallen through? A.—Yes.

Q.—And was that the lowest price Mr. Roblin had asked before this month of December, do you know, so far as you have any knowledge, I mean? A.—I think so. I am not quite sure if it was Mr. Roblin's idea that he would be satisfied with \$5 clear. I got that impression somewhere but I could not swear to it.

Q.—At the time that this transaction was carried through you had the idea that Mr. Roblin had come to the conclusion that \$5—net to him, do you mean? A.—That is the way I understood it, yes.

Q.—Would be acceptable. Then the letter written by Mr. Foster offers \$5.25 with a commission? A.—Yes.

Q.—Did you know who the commission was for? A.—I had no idea.

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Q.—Did you know whether Mr. Pritchard would be getting a commission on that transaction? A.—No, I had nothing to do with that. Never inquired into it.

Q.—What position did Mr. Pritchard occupy? A.—He was, I think, at that time in the employ of the Provincial Government in Manitoba.

Q.—In what capacity? A.—I would not be sure, but I think it was in the Vital Statistics Office, or some office along there.

Q.—Was he the private secretary of Mr. Roblin at that time? A.—I couldn't say. I know Mr. Roblin had Mr. Macdonald as private secretary. I don't know whether Mr. Macdonald was employed at that time or not.

Q.—So far as your information goes, you cannot say whether it would be in the contemplation of the parties that there should be any commission for Mr. Pritchard from Mr. Roblin? A.—No, I would not know anything about that.

Q.—You would assume that this letter of Mr. Foster's offering \$5.25, that a commission of 25 cents per acre would mean payment of \$5.25, but that a commission should be returned to some person of 25 cents an acre, that is what you would infer? A.—Somebody was to get it, certainly.

Q.—And from the way this was put and your knowledge of land transactions, that is what you would infer, is it not? A.—Yes.

Q.—Then what was the next that happened after these letters and the telegram passed, and you received them, what did you do? A.—Oh, I must have seen Mr. Roblin in an interview in which he expressed his satisfaction at the terms.

Q.—That is you got instructions to close it? A.—Yes, in fact I know I must have seen him and that might lead me to think that he brought down the papers, a lawyer would not swear to that.

Q.—I understand that you are not making any positive statement about that. In fact you might have got the papers and the instructions all at the same time? A.—Yes, that is quite possible.

Q.—I was not concerning myself about that particularly. I was asking what you did next, following up the transaction with the Union Trust Company. A.—I wrote to Mr.

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Foster and I produce a copy of the letter which I wrote on the 2nd January, 1904.

Q.—This will be part of the same exhibit. A.—And also followed it up on the 6th January, and then I received a letter from Mr. Foster dated the 5th January and a further one dated the 11th January, 1904. I have been unable to find any copies of my letters to Mr. Foster, but produce Mr. Foster's.

Q.—That is any copies of missing letters that the correspondence shows were written? A.—Yes.

Q.—That is to say, you have given us all the copies of your letters that you can find? A.—Yes. There is a copy of a letter I wrote to Mr. Roblin informing him of the adjustments that had been made. You won't need these National Trust letters, I think. A further letter from George E. Foster, General Manager of the Union Trust Company, dated 4th June, 1904; and the 23rd June, 1904.

MR. KENT: In what Province are these Swan River lands? A.—In the northwestern portion of Manitoba.

MR. TILLEY: Then the next letter is the one from you to Mr. Foster of January 2nd, 1904. (Reads this letter.) Then a further letter of January 6th to Mr. Foster. (Reads this letter.) In that letter of January 6th you suggest that Mr. Foster should send you a cheque payable at par in Winnipeg, for the amount of the cash payment, less the commission. So that you knew that the commission was being kept at Toronto, at any rate. A.—Yes, I understood that.

Q.—And you assumed that it was Mr. Foster, I suppose, that was to get the commission? A.—I don't know that I assumed anything.

Q.—At that time you knew from your letters, they show by the way they are addressed, that you were writing Mr. Foster as Manager of the Union Trust Company? A.—Yes.

Q.—And the agreement was with the Union Trust Company? A.—That is right.

Q.—Did you insert in the agreement a provision that the purchase money was to be \$5.25 with a commission deducted? A.—No.

Q.—Why didn't you put that in the agreement, do you remember? A.—My recollection is that the agreement called for the \$5.25 per

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acre, but that the 25 cents per acre was to be deducted from the cash payment.

Q.—When making that agreement with the Manager of the Union Trust Company, do you know why you did not show that the deduction was to be made? A.—No, because Mr. Roblin said "all I am to get is \$5 an acre, that is all I want."

Q.—Why would you put in the \$5.00 then, was there any discussion about that? A.—I simply drew the agreement from the instructions and correspondence Mr. Pritchard produced to me.

Q.—You had no particular instructions about that? A.—None whatever.

Q.—You did not discuss that with Mr. Roblin or Mr. Pritchard? A.—I don't think so.

Q.—As to whether you should show what the officer of the Union Trust Company had stipulated for as to the price to be paid, \$5.25, less 25 cents commission? A.—I don't think I discussed it with either of them; I simply followed the correspondence and put it that way.

Q.—You assumed that the contract called for \$5.25 and the commission would be either deducted or paid? A.—Yes.

Q.—And in your letter you suggest that the commission should be deducted. A.—I suppose so, if it is there.

Q.—What this says is, less the commission as per agreement; you do not mean the formal agreement that you drew up, but as per the understanding? A.—Yes, that is correct; the correspondence.

Q.—Then Mr. Foster replies to your letter of January 5th, 1904 (reads). "Contracts will be with the Union Trust Company in trust." I see that change was made; possibly you had not in your draft put in "in trust" or as trustees. A.—My copies show it now as trustee.

Q.—Perhaps that was amended after Mr. Foster drew your attention to it? A.—I don't know that.

Q.—So Mr. Foster appears to have made a proposition, after you had suggested that the commission should be deducted, he proposes that the whole amount should be passed to the credit of your account in the Standard Bank at Toronto and that you should send him a cheque on that bank for the amount of the commis-

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sion payable to him and he would cash it against the amount he had deposited in the bank A.—Evidently so.

Q.—That is as you understand his proposition? A.—Yes.

Q.—The next letter is January 11th, 1904, and is to Mr. Whitla. I should point out that that is not quite correct what I have said there; Mr. Foster's letter apparently crossed yours; it was not a proposition made by him resulting from what you had said at all. A.—He acknowledged the receipt of the first letter; I thought my proposition was in the first letter.

Q.—No, your proposition was in the second, so that those letters crossed. Then on the 11th January he replied to your letter enclosing the agreement (reads this letter). Then February 2nd, 1904, a letter to Mr. Whitla (reads). The letter that Mr. Foster replied to is one of the letters you cannot find? A.—Yes, I cannot come across it.

Q.—And apparently you straighten out these objections made by Mr. Foster? A.—Yes.

Q.—Do you know how the mistake arose? A.—In the lands?

Q.—Yes. A.—Oh probably Mr. Pritchard had some old plat of Gordon's that he was originally working on that did not correspond to the lands finally selected and sold to me.

Q.—Do you say that was the case, that he had not a proper description of the lands? A.—I think that was the case; there was no difficulty in my straightening the matter out, once I saw the objection.

Q.—Can you say whether Mr. Foster or the Union Trust Company had inspected those lands which were in the original list offered by Mr. Pritchard? A.—I cannot say that.

Q.—You don't know anything at all about what investigation was made by the purchasers? A.—No, I understood these were all selected lands when they came into my name originally. —

Q.—Mr. Gordon, I suppose, was the person that made the selection? A.—Yes, and Mr. Roblin sent a man out there at considerable cost to find out what the lands were.

Q.—You are referring now to the particular lands described in the contract with you? A.—Yes.

Q.—And apparently Mr Foster had been dealing with some previous arrangement that Mr. Gordon had with

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the Canadian Northern? A.—Oh, I think the selection covered a wider field than the final 10,000 acres or 9,920, and possibly Gordon had an erroneous list.

Q.—Then, do you say the list that was in the agreement which you sent to Mr. Foster was the correct list? A.—Oh, yes.

Q.—And all that transpired, apparently, after Mr. Foster made the objection was some assurance by you that if he had got any other list from Mr. Pritchard it was wrong and that your list was right? A.—Yes, I would have no title at all to any other than those.

Q.—What I mean to say is that the changes Mr. Foster suggested in his letter to you were never made because your list was right in the first place. A.—With the exception of possibly one quarter section which I noticed was scratched out. The south west quarter of one section.

Q.—That was taken out of the agreement? A.—Yes.

Q.—Otherwise the agreement remained the same as to the description of the lands? A.—Yes.

Q.—And the whole corresponds, so far as the Union Trust Company is concerned, showing the action the company took with regard to further investigation or inquiry, is shown in this correspondence you have given here? A.—Yes.

Q.—And you have searched for your letter to him to which this is a reply? A.—Yes, if I find it I will be very pleased to produce it.

Q.—On February 6th, on receiving the agreements, you apparently wrote your client, the Hon. Mr. Roblin, Premier of Manitoba (reads this letter). In that letter the cash payment seems to be \$12,400? A.—Yes.

Q.—As a fact had you received that amount? A.—No.

Q.—You had received that amount less the \$2,480? A.—I received \$9,920. One dollar an acre.

Q.—And this cheque (Exhibit 564) shows the payment. Of course you would never see that cheque. It would be paid into the Standard Bank on your account of that amount of money. A.—Evidently, yes.

Q.—Was that the way the transaction was carried through, was it deposited to your credit in Toronto? A.—I don't think so.

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Q.—How was it done, according to your recollection? A.—As far as I can remember I received a cheque for \$9,920.

Q.—That is shown here. A cheque payable to the order of the Standard Bank for a draft on Winnipeg. So a draft on Winnipeg was purchased with this cheque and you received the money in that way. The balance, the \$2,480, is shown by Exhibit 574 which is a cheque of the Union Trust Company payable to the Hon. George E. Foster, dated February 2nd, 1904? A.—I have no knowledge of that.

Q.—But that was the commission which was to be deducted according to the arrangement made with Mr. Pritchard? A.—That was the amount of the commission, yes.

Q.—And was the commission, so far as you knew? A.—I never knew anything about it. It may be.

Q.—Well, there was that sum to be paid by way of commission at any rate? A.—Yes.

Q.—Deducted? A.—Yes, deducted; that is right.

Q.—Then May 27th, 1904, to yourself. That is a letter from the Canadian Northern. Subsequently a letter of June 2nd, 1904. That was from the Canadian Northern Land Department, per the National Trust Company? A.—Yes, they were trustees.

Q.—Then you, apparently, wrote the trustees, and the trustees replied, acknowledging the receipt of your letter, stating that the lands had been sold, but that they still stood in their office in your name. This is a letter of June 4th, 1904, from Mr. Foster to you. (Reads). Subsequently a letter of June 23rd to Mr. Whitla; that is signed by Mr. Foster. That completes the whole of the correspondence that has any bearing on the transaction with the Union Trust Company? A.—Yes, except that I think there were some disputes about the survey fees of 10 cents an acre. The Union Trust Company wished me to assume that payment. That was after they had paid me off.

Q.—That was an entirely subsequent matter and arose out of a claim made by them that you were the party that should pay the surveying fees for having the land surveyed, and what position did you take about that? A.—I took the position that in our Province it is the custom for

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the last purchaser, that is the one who calls for the deed from the railway company to pay the ten cents an acre survey fee.

Q.—That is the one who takes the deed provides the description for the deed? A.—It is a peculiar provision in those railway contracts; the ten cents an acre is not spread over the term of years, but is added to the last payment. Consequently the man who makes the last payment must pay that ten cents. I refused absolutely to pay the ten cents an acre and the Trust Company subsequently, I believe, paid it.

Q.—That dispute ended there? A.—Yes.

Q.—I am not asking about matters of that nature? A.—Well, that is all the correspondence.

Q.—That is all the correspondence relating to any commission or deductions from the purchase money? A.—Yes.

Q.—Were there any other commissions paid out of that money? A.—Not to my knowledge.

Q.—You have not heard of any other commissions being paid? A.—Oh, I have heard. I have heard from Mr. Pritchard, but I don't know that that is evidence. He is here and he can tell you what he told me.

Q.—Have you heard of any other commissions other than Mr. Pritchard's? A.—No, none whatever.

Q.—Do you know anything about the lands themselves? A.—I never saw them. I know they are in a good district.

Q.—Do you know their character? A.—Yes, I believe them to be good fertile lands.

Q.—Do you know whether there will be any expense involved in order to clear the lands and put them in shape to farm? A.—I don't know anything about that; I never saw any reports on the lands but always understood from Mr. Gordon who had something to do with the inspection, that they were good lands.

Q.—Did you know whether they would need to be reclaimed? A.—No, I didn't know anything about that.

Q.—Have you told us now your entire connection with it, so far as the Union Trust Company is concerned? A.—Yes, that is all I know about it. I have here the cheques which I paid for the lands. I suppose you are not interested in them.

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Q.—No. Was there any suggestion made at any time that the commission you have told us about was in any way in reduction of price, that you know of? A.—No, I never heard anything.

Q.—Did you ever hear of any negotiation of prices except what this correspondence shows? A.—That is all I knew about it. I prepared the documents from that.

ARTHUR W. PRITCHARD sworn.
Examined by

MR. TILLEY: Q.—Mr. Pritchard, what is your present occupation? A.—Dealer in large tracts of land, and timber, and city properties in Winnipeg.

Q.—In the real estate business in Winnipeg; does that describe it? A.—Yes, in that way.

Q.—In a large way, a wholesale way? A.—Yes.

Q.—How long have you been following that occupation exclusively? A.—Since the 1st February, 1904, I think. About two years.

Q.—Prior to that date what position did you occupy? A.—I was accountant in the Department of Agriculture and private secretary to the First Minister.

Q.—That is you were Private Secretary to the Hon. Mr. Roblin? A.—First starting with Mr. Norquay and following with the successive Premiers down to that date.

Q.—Extending over how long a period? A.—22 years.

Q.—Extending over a period of 22 years you were Private Secretary to the Prime Minister? A.—The different Premiers, with the exception of the Hon. Hugh John. I wasn't with him.

Q.—Then in 1903 you say that you occupied that position at that time? A.—Yes.

Q.—What was the first transaction you ever had with the I.O.F. or the Union Trust Company, or any of the officials of either of those companies? A.—The first transaction I had was with the Hon. Dr. Montague.

Q.—And when was that? A.—That must have been about 1903, I think.

Q.—And have you brought with you any papers that you had relating to that transaction? A.—No, those were handed, as I remember it, to the people who had the lands for sale.

Q.—You say you think the papers relating to that matter were all with the persons who were the vendors of the land? A.—With those who were representing the vendors.

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Q.—The vendors or their agents? A.—Yes.

Q.—And have you none in your own possession? A.—No.

Q.—Did you look for them? A.—Yes.

Q.—And you have not any papers at all relating to that matter? A.—Not that I could find.

Q.—Who were the vendors or who would have the custody of those papers? A.—Well, we had some trouble with Dr. Montague over the commission. He didn't want to pay a commission. He said that he had agreed with me for what he called an honorary consideration, for finding him these lands, and I secured these lands from Messrs. Aikins & Pepler, real estate agents in that city, and I advised them I was putting them up to Dr. Montague, and they in turn advised the Rev. Mr. Gillespie of Toronto.

Q.—What position did he occupy in connection with the transaction? A.—He was head of the Colonization Company that owned these lands.

Q.—So that you saw the agents who had the lands for sale on behalf of the Rev. Mr. Gillespie's company, is that the idea? A.—Yes.

Q.—And did you communicate that you saw them at the request of Dr. Montague? A.—Yes, I told them that.

Q.—What was his request, that you should get some particular lands? A.—No, no lands in particular. To secure him anything that was a good bargain.

Q.—You were to try to get track of a good purchase and advise him? A.—That was the idea.

Q.—And for that he was to pay you some honorarium? A.—That is right.

Q.—Not by way of a commission on sale, quite? A.—No.

Q.—Not of that magnitude, but something for your trouble? A.—For the knowledge which I possessed in regard to different blocks of land.

Q.—Then did you obtain information and communicate it to him regarding the lands that were afterwards sold to him? A.—Yes.

Q.—And that information was obtained from the firm of Aikins & Pepler, real estate agents in Winnipeg? A.—Yes.

Q.—Then what was the dispute? A.—Well, Dr. Montague was told who were the owners of these lands, and that they were in Toronto and he took up the matter personally at the Toronto end.

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Q.—That is, with the Rev. Mr. Gillespie? A.—Yes, and when the question of commission came up, he told Mr. Gillespie he would settle that, he would assume that; thinking, as he said, that there was only me to deal with, but it turned out that the firm of Aikins and Peplar had to be dealt with also.

Q.—That is to say, in the agreement with the Rev. Mr. Gillespie or his company, Dr. Montague assumed the obligation of paying all commissions? A.—Yes.

Q.—And when he entered into that obligation he had in mind what he had promised to pay you? A.—I suppose so, that is what he said.

Q.—That is the position he took afterwards? A.—That is the position he took afterwards, yes.

Q.—That he did not think he should pay any charge by way of commission of these Winnipeg real estate agents? A.—Yes, he said he had nothing to do with them.

Q.—And they, on the other hand, claimed a commission because they had the lands in hand for sale? A.—Yes, and they so advised Toronto.

Q.—They advised Mr. Gillespie? A.—Yes.

Q.—Or his company, that there would be a commission to pay to them? A.—Yes.

Q.—Mr. Gillespie makes a contract with Dr. Montague whereby he promises to pay the commission? A.—Yes.

Q.—And then Dr. Montague says, when I signed that contract I had in mind Mr. Pritchard and no person else? A.—Yes.

Q.—That was the way the tangle arose there? A.—That was the position.

Q.—What was the price that was being paid for those lands? A.—I can hardly remember. I think it was \$3.50.

Q.—And how many acres of land were covered by the transaction? A.—18,000 or 20,000 acres, I think.

Q.—Where were they situated? A.—They were round the Kirkella, on the proposed line of the Kirkella branch of the C. P. R., just west of the second meridian.

Q.—Who was the vendor of them, what was the name of that company that Mr. Gillespie was the head of, do you remember? A.—I don't remember. It was a colonization company. They secured the lands, I think, in 1881. Some company that was formed in the early days.

Q.—Do you know to whom the lands were conveyed, was it to Dr. Monta-

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gue or the Union Trust Company? A.—I would not know about that. I had nothing to do with that.

Q.—What solution was ultimately made of this difficulty with regard to commissions? A.—We agreed to forego some of the commission and accept an amount of \$2,700 to be divided among three of us.

Q.—Who was the third party? A.—Mr. Muttiebury.

Q.—Who was he? A.—He was the one who really had the land, but Aikins and Peplar worked a great deal with him. He was the head of a loan company there.

Q.—Winnipeg is a place where it is easy to get mixed up with commissions; there were three claiming commissions? A.—I don't know how it is in other places; I know it is easy there.

Q.—Then you finally arranged as a compromise that \$2,700 should be paid. Do you know whether Dr. Montague paid it? A.—I understood that he did. He had to deal with the firm of Aikins & Pitblado.

Q.—Did you agents, if I may call you all agents for that purpose, join in putting it in the hands of a firm of solicitors there? A.—Yes, we had to in order to get it.

Q.—You parties were acting together. I suppose that you were endeavouring to see that the other agents got some payment, were you? A.—I was not going to see those left from whom I secured the lands. I was going to see they got an equal interest.

Q.—You thought it was fair that payment should be made to them because they had the lands for sale? A.—That was the way they were making their living.

Q.—And I gather from what you say that you had in mind that yours was not in the way of a real estate agent's commission at all, but more of an honorary gift made by Dr. Montague as an acknowledgement for your services. Is that right? A.—Well, I could not receive it as that after he had refused to give it, but he had to pay the commission, and they allowed me part of their commission.

Q.—And when the difficulty occurred you took the position that you, by contract, were entitled to something? A.—They thought I was, too.

Q.—Then the \$2,700 being paid, that was in settlement of all your

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claims? A.—Yes, that was paid in full.

Q.—And you were paid how much? A.—\$900.

Q.—And the other two divided the balance so far as you know? A.—Yes.

Q.—Did that end that transaction? A.—Yes.

Q.—Was there any commission paid in connection with that purchase? A.—No, nothing that I know of.

Q.—No return of purchase money? A.—No, nothing that I know of.

Q.—No return of purchase money? A.—No, nothing that I know of.

Q.—It was, so far as you know, a transaction where lands were conveyed for a price that was openly agreed on, without any diversion of the purchase money to any of the parties interested? A.—That is right.

Q.—You say that without any mental reservation at all? A.—Oh, yes, without anything at all, so far as I know.

Q.—And the only financial complication was the payment of the commission that you have told us about? A.—Yes.

Q.—And that was adjusted as you have said? A.—Yes.

Q.—Then did that end that matter? A.—That was the end of it.

Q.—Did you have any other transactions with Dr. Montague? A.—No, I did not.

Q.—Who was your next transaction with where the Union Trust Company or the I.O.F. were interested? A.—The Hon. George E. Foster.

Q.—In connection with what lands? A.—In connection with the 40,000 acres. I believe the figures were given 40,960.

Q.—That is in connection with two townships, the Carrot River lands, were they? A.—The Carrot River lands.

Q.—The vendors being the Ontario, Manitoba and Western Land Company? A.—Yes.

Q.—Have you produced any papers relating to that transaction? A.—No, I did the same with these papers as I did with the papers in Mr. Whitla's case. I handed them to the solicitor.

Q.—Here is the subpoena that was served on you. It reads in this way: "You are required to bring with you and produce all documents, papers,

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agreements, notes, cheques, correspondence and other documents, whether originals or copies, in your possession or control in any way relating to any negotiations or transactions relating to lands with the Independent Order of Foresters, the Union Trust Company, Limited, the Hon. George E. Foster and the Hon. W. H. Montague, or any of them, including sales of lands by or through the Ontario, Manitoba and Western Land Company and H. W. Whitla, or relating to any payments made or received in connection with such negotiations or transactions, whether as purchase money, commission, payment for services or otherwise." Now, you read the subpoena? A.—I read it over. I told Mr. Afleck—

Q.—That is the party who served you? A.—Yes. I says: "Well now, I have not any papers. I turned those in to the solicitors." He said: "Take your bank book with you and show it here." And I said: "The bank book I have—I deposited my money to my credit in two different accounts in the Dominion Savings Bank, and even that book has gone into the Finance Department and has been collected. I having closed out my account."

Q.—You having closed out your account? A.—Yes.

Q.—You had closed out your account from the Post Office savings branch? A.—Yes.

Q.—Both accounts? A.—Yes.

Q.—And closing them out you had to surrender the books? A.—Yes, so that I could not even show that, and the cheques that I received or notes have gone back to the parties.

Q.—What do you say happened to the correspondence? A.—I say I turned that in to the solicitors.

Q.—To what solicitors did you turn in the correspondence regarding the purchase or sale of the Carrot River lands? A.—Mr. Campbell.

Q.—What Campbell? A.—He is the president of the company referred to and also solicitor.

Q.—He is the president of the Ontario, Manitoba and Western Land Company? A.—Yes.

Q.—And also solicitor? A.—Yes.

Q.—What Campbell is that? A.—That is the Attorney General.

Q.—What is his name? A.—Colin H. Campbell, the Attorney General.

Q.—Do you say that all the papers which you had would be with

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him? A.—The papers vital to the deal would be with him.

Q.—The papers vital to the deal? A.—Yes.

Q.—When you say papers vital to the deal, do you mean the papers that showed the arrangement that you concluded? A.—Yes.

Q.—Somewhat the same as the papers that Mr. Whitla produced? A.—Yes.

Q.—Relating to the Swan River lands? A.—Yes.

Q.—Then there would be other papers that would not be described as being vital? A.—Oh well now if I would write a letter to Mr. Foster I would not keep any copy of that.

Q.—Did you not keep a letter book in which you would keep a letter-press copy? A.—No.

Q.—Did you make copies of any letters you wrote? A.—No.

Q.—You never made them at all? A.—No.

Q.—Your 22 years' experience would not lead you to make copies of letters? A.—Unfortunately, we do not seem to learn things by experience.

Q.—When it comes to your own transactions you omitted to make any copies? A.—We seemed to neglect in our own transactions.

Q.—You say you have not any paper in your collection at all that throws any light on this matter? A.—Not that I am aware of.

Q.—We will have to take your recollection for the present at any rate and see how we get along. Tell me how you came in contact with Mr. Foster in connection with that transaction? A.—Well, as I remember it, certain trust companies were inquiring about the lands in the States, and I wrote to several of them—

Q.—Offering these Carrot River lands or offering other lands? A.—Well, to find out whether they were in the market generally.

Q.—Generally? A.—Really in that respect I looked around to see what trust companies we had ourselves, and the Union Trust Company came to my mind and I wrote to the Hon. Mr. Foster.

Q.—Did you write your letter, do you remember, to the company or to Mr. Foster? A.—Oh I wrote it to Mr. Foster.

Q.—Had you had any previous dealings of any kind with Mr. Foster? A.—No.

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Q.—Or any negotiations with him? A.—No sir, I do not think so.

Q.—Did you know him personally? A.—No.

Q.—At that time you did not know him personally? A.—No.

Q.—Do you remember what month and what year it was? A.—That I wrote to him about this?

Q.—Yes? A.—Well, I suppose it would be in 1903.

Q.—In what month? A.—I would not swear to that. I am only speaking from memory.

Q.—I want the best of your recollection. You have heard Mr. Bettes' evidence this morning. I suppose the dates of the agreements and so on helped you? A.—It revived it in my mind. We are speaking now of the 40,000 acres.

Q.—Entirely of the Carrot River lands? A.—Well, between the time that I submitted it to Mr. Foster and the time that he accepted would not be very long. The only time that intervened was the time it took to inspect these lands.

Q.—Was that the time between his acceptance and the date of the formal contract? A.—Yes. Well, he accepted conditionally upon the lands passing inspection.

Q.—That is the formal contract provided that, do you know? A.—Oh no. The contract would not entered into until after the inspection.

Q.—The delay would be between his acceptance pending inspection? A.—Yes.

Q.—And the formal contract that would be entered into after inspection? A.—That is it.

Q.—Are you able to say with respect to those Carrot River lands that there was inspection by Mr. Foster or the company? A.—I understood Mr. Bettes to tell me he made an inspection.

Q.—That who made it? A.—Mr. Bettes.

Q.—For the purchaser? A.—Whether he was referring to inspection for himself—if he didn't make it then I do not know who made it.

Q.—If Mr. Bettes the manager of the vendor company, did not make the inspection you do not know who made it? A.—No, Mr. Foster never said to me who made the inspection.

Q.—Can you say then from recollection that there was a delay during which you made inspection? A.—Oh certainly I can say that.

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Q.—You thought there was a delay for that purpose? A.—Yes.

Q.—Then it must be some time before the 18th October? A.—Oh yes.

Q.—Where are those lands, those Carrot River lands, can you say? A.—Well, they were described this morning as 45 and 46, 14 west of second. I think that is correct.

Q.—So that you think in that way there was some time allowed within which investigation of properties could be made? A.—Oh I feel certain that an inspection was made before they were accepted.

Q.—Then you say you got in touch with Mr. Foster by following up Trust Companies as likely purchasers? A.—That is my recollection of it.

Q.—Were you brought into touch with him by any person? A.—No, no.

Q.—Did you have direct communication with him by letter? A.—Yes.

Q.—Did you have any personal interview in connection with those lands? A.—No.

Q.—Mr. Foster said in his evidence that he had no dealings with you at all with respect to those lands. Are you able to say on your memory of the transaction that that is not correct? At page 2647, speaking of the purchase of the Ontario, Manitoba and Northwest Land Company lands Mr. Foster was asked "did Mr. Pritchard have anything to do with that or not?" And the answer is: "Never heard of Pritchard's name in connection with it, my communications were entirely so far as I was concerned with Sheriff Bettes." Mr. Bettes says that he had no communication with Mr. Foster, and his statement is that you carried on the transaction. Now, can you say that you carried it on directly with Mr. Foster, or was it through some other person? A.—Oh I carried it on directly with Mr. Foster.

Q.—Are you sure you did not have some intermediary between you? A.—Oh, perfectly sure.

Q.—You are perfectly sure of that? A.—Yes.

Q.—Tell me what communications ever passed between you and Mr. Foster? A.—Oh, I submitted these lands to him, told him that it was a solid block of land, 40,000 acres.

Q.—Two townships? A.—Two townships, almost solid, outside of the Hudson Bay properties and the

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school section, and said that it would make a fine estate, as I remember it, such a block was very hard to find, and it being a solid block I thought would add greatly to its value as an investment, it being so rare.

Q.—Did you quote him any price in connection with that? A.—Oh yes.

Q.—What price did you quote? A.—\$5.

Q.—Was that all in one letter do you remember? A.—Yes, just in one letter.

Q.—You wrote praising up the proposition? A.—Yes.

Q.—And fixing the price at \$5 per acre? A.—Yes.

Q.—Did you say anything about commissions in that letter? A.—No sir.

Q.—Nothing said about commission, but a straight offer of the lands at that price? A.—Yes.

Q.—Had you Mr. Bettes' authority to offer the lands at the price? A.—Yes.

Q.—Did he know you were offering them to the Union Trust Company? A.—No.

Q.—Or to Mr. Foster? A.—No.

Q.—Did you offer them to any other person or company at the same time or about the same time? A.—Not that I remember.

Q.—Did you get a reply from Mr. Foster to your letter? A.—I got a telegram, I think, saying that they would have them inspected.

Q.—Subject to inspection did he would have the lands inspected? A.—Subject to the inspection.

Q.—Subject to inspection did he say he would accept them? A.—Yes.

Q.—That was in a telegram to you? A.—Yes.

Q.—And that telegram he turned over to Campbell? A.—Yes.

Q.—Does that comprise all the correspondence that passed between you? A.—All that I remember.

Q.—Was anything said at the time to you about what your commission would be on that transaction? A.—It was understood that I was to have 25 cents an acre.

Q.—Who did you understand that with? A.—Sheriff Bettes.

Q.—So that you had an arrangement whereby you were to get 25 cents an acre if you carried through the sale? A.—Yes.

Q.—Did you make any proposition to Mr. Foster regarding sharing commission with him? A.—Yes.

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Q.—When did you do that? A.—Well, I did that between the time of submission and the inspection.

Q.—Before his telegram or after? A.—Well before—well I think I wrote him offering to rebate or divide the commission.

Q.—Which was it that you offered? What did you say to him? A.—I said to him that I would split it in two.

Q.—You told him what your commission was? A.—Yes.

Q.—And you told him that you would split it in two? A.—Yes.

Q.—Was that before he had sent you any telegram? A.—Yes—well that I cannot say, because he may have received this letter before he sent the telegram of acceptance.

Q.—That is you wrote the letter before you got the telegram? A.—Yes, I wrote the letter before I got the telegram.

Q.—And you cannot say whether the letter reached him before the telegram or after he had sent the telegram? A.—No, I have always been in doubt about that.

Q.—That is to say your offer about the commission was in transit to him but his telegram came so quickly that you could not say whether your letter had reached him? A.—That is right.

Q.—That is pretty clear in your mind is it? A.—Yes.

Q.—Because when you got the telegram you commenced to feel a little sorry, did you, that you committed yourself to this letter? A.—I do not know that I could say that I was sorry or not. I thought perhaps it might have gone through anyway.

Q.—The thought came, was it necessary after all? A.—Yes.

Q.—I suppose it was just to expediate this matter that you sent the letter offering to divide the commission—just to hurry it along or make it run a little easier? A.—I suppose so.

Q.—That you say was not the result of any discussion about price? A.—Oh no, it played no part in it.

Q.—It played no part in it at all? A.—No.

Q.—Then that left \$5,000 commission for yourself? A.—It left \$5,000.

Q.—Why do you put it that way? Why do you not say yes? Was there something that was not for yourself there? A.—Well, there was something that I did not get.

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Q.—What did you not get? A.—Well, Mr. Campbell—

Q.—What Campbell? A.—The Attorney General. He thought that he had had a good deal of trouble over these lands in one way and another and he ought to come in for \$1,000, so I finally consented to let him have that amount.

Q.—You say that Mr. Campbell, who was the president of the selling company— A.—Yes.

Q.—Said to you that he thought that for his trouble he should get \$1,000? A.—Yes.

Q.—When did he say that? A.—Well, as I received these letters or telegrams I showed them to Mr. Campbell.

Q.—That is to say, you kept Mr. Campbell, who is the president of the company, advised as to the progress of matters as they were going on? A.—Yes.

Q.—That is to say, you were candid in disclosing everything to him? A.—Yes.

Q.—During the progress of the negotiations? A.—Yes.

Q.—Did you disclose to him that you had written to Mr. Foster offering to divide the commission? A.—Well, I think that was disclosed by the telegrams which he saw.

Q.—Which telegrams? A.—The telegrams mentioning the commission.

Q.—The one you sent? A.—No, the one I received from Mr. Foster.

Q.—Did you get more than one telegram from Mr. Foster? A.—I am not sure as to that, whether the whole thing was in one or whether there were two telegrams.

Q.—But at any rate one of Mr. Foster's telegrams to you, or the telegram that he sent, if there was only one, referred specifically to the commission? A.—Yes, sir.

Q.—That part of the transaction was closed and settled by a telegram from Mr. Foster accepting your kind offer; is that what you say? A.—Well, Mr. Campbell saw that telegram.

Q.—Then up to that time had Mr. Campbell suggested that the \$1,000 should be paid to him? A.—No, it was when the thing was finally going through, when it was a bargain.

Q.—That is about October, when the agreement was signed, or at this time when the offer was accepted

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pending investigation, at which time? A.—Well, after the inspection had been made.

Q.—So that nothing was said by him as to the division of the commission until the matter was ready to close? A.—Yes, that is right.

Q.—Tell us just what was said? A.—Well, he said, "I think that it would be to your advantage to give me \$1,000 of this commission."

Q.—What did he mean by that? A.—I said, "On what ground? What have you done for it?" And he said, "Well, it will be to your advantage to give me the amount," and he said, "You go and think it over." So I went home and thought it over, and I thought there must be something somewheres brewing, or he would not say that unless it was true; so I 'phoned him and said that I decided to give him the \$1,000, and he said he thought that I had acted wisely.

Q.—Did you have any further negotiation about that or was that all that was said about that until you paid the money, or did you pay the \$1,000? A.—No, I did not pay the money.

Q.—The \$1,000? A.—Oh yes, I handed him that in cash, after putting the note through the Bank of Hamilton.

Q.—That is to say, you got from Mr. Bettes the cheque and the note? A.—Yes, I got it from Campbell.

Q.—The cheque and the note seem to be signed by Colin H. Campbell, president, and James W. Bettes, manager, the Ontario and Manitoba Northwestern Land Company, and you say this cheque and the note were handed to you by Mr. Campbell both of them, were they? A.—Yes.

Q.—And then did you cash the note? Did you discount it? A.—Yes, I discounted the note through the Bank of Hamilton.

Q.—Did you attend to that? A.—Well, I went down to the bank. Mr. Campbell's office is upstairs. I went down to the bank, and he telephoned the manager to give me the money, and then when I got the money I went up and gave him \$1,000 cash.

Q.—Did you pay out any other commission in connection with that out of your \$10,000? A.—No, I stopped there.

Q.—Did you get the balance, the \$4,000? A.—Yes.

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Q.—Then I suppose you feel that you got off pretty well after all, to get off with the \$4,000, don't you, or did you have any thought about that at all? A.—Well, we always think we might have done better perhaps.

MR. KENT: Q.—I suppose it might have been worse, too? A.—Yes, it might have been worse, too.

MR. TILLEY: Q.—You have told us of every negotiation or discussion you had regarding dividing commission or rebating in connection with that transaction A.—Everything.

Q.—Did any other person in connection with the Union Trust Company or the Independent Order of Foresters get any consideration from you or any person else in connection with that transaction? A.—Not to my knowledge.

Q.—You have given us a frank disclosure of everything? A.—Everything.

Q.—Do you know anything about those lands? A.—These 40,000 acres?

Q.—Yes. A.—Well, I knew quite a bit about it then. They were supposed to be covered with pea vine, which is an indication of good soil, and they were supposed to have some valuable timber, probably a section of timber, on it, the only timber within some distance of these lands which was said to be of considerable value. There was some scrub on the land as I understood, but excellent soil and good water, so that they were considered a good purchase, good value for the money.

Q.—And did you so regard them? A.—I never offered anything in my life that I did not think was a good purchase.

Q.—So far as we can gather there was no discussion about the terms, or attempt to get any better bargain from you or from the vendor company? A.—Not through me I do not think.

Q.—Just a mere statement of the price, a beneficial arrangement all around about commission, and the transaction went through? A.—The transaction went through.

Q.—Without any attempt to get any better terms for the purchasing company? A.—So far as I know.

Q.—So far as you know there was none? A.—Not through me.

Q.—And there was no negotiations with any person else except you? A.—Not that I know of.

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Q.—And your negotiations, as you have said, were direct with Mr. Foster, the manager of the Union Trust Company? A.—Yes.

Q.—Then what was the next transaction you had with the Union Trust Company or the Independent Order of Foresters, or any of the officers of either company? A.—Well, I went to Toronto to see Mr. Foster about 10,000 acres, or thereabouts, in the Swan River district.

Q.—In the Swan district; and you made a trip to Toronto to see Mr. Foster? A.—Well, I was taking my annual trip and holidays.

Q.—Mr. Foster's letter, too, is dated 23rd December, 1903. Can you say how long it was before that that you had a conversation with Mr. Foster? A.—I think it was some time in November.

Q.—Had the transaction with reference to the Carrot River lands been completed then? A.—Oh, yes.

Q.—They had been completed? A.—Yes.

Q.—Was there ever any bringing together of these two transactions to make one help the other in any way? A.—No. Mr. Roblin knew I had made the sale of the 40,000 acres to Mr. Foster, and he suggested that I take this block of his up to him also.

Q.—You were then in Mr. Roblin's office? A.—Yes.

Q.—As his private secretary? A.—Yes.

Q.—And he had these lands, Swan River lands, which stood in the name of Mr. Whitla? A.—I understood they were held by Mr. Whitla in trust.

Q.—That has been shown? A.—Yes.

Q.—And Mr. Roblin, hearing of your success with the Carrot River lands, suggested to you that you should try and sell his Swan River land? A.—Yes.

Q.—Or was the suggestion from you? A.—No, I think that he suggested it. It may have been the other way, but I think it was his suggestion.

Q.—Had you any discussion with Mr. Foster when you were carrying on the Carrot River negotiations that you might come to him about the Swan River lands? A.—No, there was no connection.

Q.—No connection at all? A.—No connection whatever.

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Q.—One was not used in any way to help the other? A.—No, perfectly distinct.

Q.—What did you know about the Swan River lands, as to their quality, condition and value? A.—Well, I had seen people that had been over them; for one thing we knew there was coal on one section—at least indications of coal.

Q.—That is better. A.—Well, there was coal, and I also knew that there was a line going to be built running down to Thunder Hill, which would run through these lands, and thus every railway adds an additional value in lands up in our country.

Q.—You knew that railway was going through? A.—Yes, we were pretty certain it was going through.

Q.—Did it go through? A.—Yes, it has since been built.

Q.—Through those lands? A.—Yes.

Q.—I gather you sold for farm lands not as a coal mine, notwithstanding the showing? A.—Well, you have to sell them as farming land. You would have no power to sell them as coal land. That is vested in the Crown, I think.

Q.—That was just by the way? A.—Yes.

Q.—Would they have to be cleared? A.—Yes, I think some of them will.

Q.—Can you say what percentage? A.—No, I do not know what percentage would have to be cleared. I could not say.

Q.—Half of it? A.—I would not like to make a statement about that, because I am not sure.

Q.—What would be the expense involved per acre of clearing it? A.—About \$2, between \$2 and \$3.

Q.—Between \$2 and \$3 it would cost per acre to clear it to the extent to which it needs clearing? A.—If it was scrub lands it would cost that to clean it.

Q.—And you believe that part of it is scrub land? A.—Yes, I think so.

Q.—Is not the whole of it scrub land? A.—No, I believe not, not the whole of it.

Q.—Will it require draining? A.—No, I never heard that it would.

Q.—Had you carried on any negotiations previous to November, 1903, looking towards selling those lands? A.—No.

Q.—No negotiations at all? A.—No.

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Q.—Did you know what price Mr. Roblin was asking for them? A.—Well, he asked Mr. Foster \$7 for them.

Q.—You say that rather smilingly? What do you mean by that? A.—Well, it was a good deal more than he got.

Q.—Through whom did he make the request of Mr. Foster that the lands should be taken at \$7 an acre? Through you? A.—Through me, yes.

Q.—Was that in the verbal interview you had in Toronto? A.—Yes.

Q.—Mr. Whitla seemed to be of the opinion that Mr. Roblin was then willing to take considerably less. Did he intimate that to you? A.—No, he did not intimate that to me.

Q.—You came down to Toronto with the object of endeavoring to effect a sale at \$7 an acre? A.—That was the price he asked.

Q.—Did you discuss with Mr. Roblin the necessity of allowing something by way of commission in connection with that price? A.—He said he was willing to allow \$5,000 out of that price.

Q.—Did you suggest that or did he? A.—He suggested that.

Q.—Did you tell him how you had arranged the other transaction regarding Carrot River? A.—No, I do not think so.

Q.—Was that just intuition on his part. Did you not make any suggestion at all? A.—No

Q.—That commission was not for you was it? A.—Well, I hoped part of it was.

Q.—But you did not think Mr. Roblin was suggesting that as something that you were going to get if the sale went through? A.—No, I suppose not.

Q.—That was a commission to be allowed to the purchaser or to the persons who might happen to act for the purchaser? A.—Yes.

Q.—And did he know that it was your intention to offer them to Mr. Foster as you had the Carrot River lands? A.—You could not put it in that way.

Q.—How would you put it? A.—Well, he told me to offer them.

Q.—To Mr. Foster? A.—To Mr. Foster.

Q.—That is to say it was the understanding that you were to go to Toronto especially with Mr. Foster in view? A.—Yes.

Q.—And he said to ask him \$7 an

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acre, although apparently he was willing to take considerably less according to Mr. Whitla's evidence, and there was to be a commission of \$5,000 you say that you were to tell Mr. Foster that he could have. Is that right? A.—I think that is right.

Q.—That being your instruction when you left Winnipeg, you came down and saw Foster and what took place? A.—He was in England at that time.

Q.—Who? A.—Mr. Foster, and I waited for his return, and he got back and he said "Well, I have got more business to attend to than a little now that I have just returned but I will take this matter up at as early a date as possible, and you had better return to Winnipeg and I will advise you there what can be done if anything."

Q.—Did that conversation take place in Toronto or Ottawa? A.—Toronto.

Q.—Was that practically the whole conversation? A.—Yes, that is it in a nut shell.

Q.—It was a long way to come for that length of talk about it. Did you see him more than once? A.—No, I just saw him once.

Q.—Tell us just what you told him as nearly as you can, just how you put it to Mr. Foster at that time? A.—Well, I told him that I was waiting, that I had been waiting to see him with reference to a block of land which Mr. Roblin owned and which he found it heavy to carry, and he would like if he could purchase it of him, and he said, "Well, I do not know what we can do, but I will take the matter into consideration," and I said, "Well, I would like to get it through while I am here." He said that that would be impossible because he had so much business accumulated since his absence that he could not deal with it at the moment, and that I had better return and he would advise me of it when he reached it, what could be done when he reached the matter. So I returned.

Q.—Did you go away without saying anything about the commission. You have not intimated yet that you said anything about that? A.—Well, I could not swear now that I told him that, but I suppose I did.

Q.—Have you any doubt about it? A.—I do not think there is any doubt about it.

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Q.—Did you tell him the amount that would be allowed by way of commission? A.—At the \$7?

Q.—How much? A.—\$5,000.

Q.—Was any discussion made as to whether a lower price would be acceptable? A.—I think Mr. Foster said "That is a pretty good price for lands up there, is it not?" Well, I said, "Perhaps it is, but I want you to take a generous view of the matter."

Q.—How do you mean generous? Because Mr. Roblin was finding it hard to carry them? A.—Well, he wanted to get all he could for them.

Q.—How would generosity come in to play there? A.—Well, I do not suppose there is much generosity in a business deal.

Q.—Not in an ordinary business deal. Do you say you were impressing on him that Mr. Roblin was finding it hard to carry them? A.—Yes.

Q.—Was that what you meant when you said you wanted him to take a generous view of it? A.—Yes.

Q.—Did you say to him whether a lower price might be taken and a lower commission allowed? A.—No, we did not go any further than that.

Q.—You were wanting \$7 an acre, and you wanted it partly on account of who the vendor was? A.—Well, there is no doubt that had weight.

Q.—Then you left Toronto with no further discussion than you have told us? A.—That is all.

Q.—And the next you heard of it was Mr. Foster's letter to you of December 23rd, 1905? A.—Yes.

Q.—That was an offer of \$5.25 with a commission of 25 cents per acre? A.—Yes.

Q.—That offer was along the lines that you had been discussing, only the price and the commission were both different? A.—Yes.

Q.—But it was made on the general principle that you had been discussing with him? A.—Yes.

Q.—Did you write the letter of 28th December, 1903, to Mr. Foster on your own initiative, or was it written by some person else for you to send? A.—No, Mr. Roblin really dictated the letter.

Q.—Mr. Roblin dictated the letter and you signed it and sent it on? A.—Yes.

Q.—Had there up to that time been any discussion between you and Mr. Roblin as to any allowance to be made to you? A.—No, I did not mention anything about that.

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Q.—No mention by either you or Mr. Roblin? A.—No.

Q.—I suppose that you would not be looking for any large commission in connection with the purchase and sale? A.—Yes, I was.

Q.—Why? A.—Well, I thought if I made the sale I had a right to the commission.

Q.—Did you think that it was a particularly advantageous sale? A.—Well, we do not take that into consideration when the vendor accepts the sale.

Q.—But you were hardly in the regular line of a real estate agent, were you? A.—I was working just as hard as if I was.

Q.—But you were a private secretary for Mr. Roblin, who was trying to sell the lands? A.—Well, I thought it was a case of Dr. Jekyll and Mr. Hyde—two parties. I parted from my private secretaryship when I was selling the lands, and I went back to it again after I sold them.

Q.—You thought that while you were away on your vacation trying to put this through that you were not the private secretary to the Premier? A.—No, I thought that that did not hold good just then.

Q.—At any rate you were looking towards a substantial commission, and what effect did this letter of December 23rd have with regard to that? Did you think that your commission, if you got one, would be in addition to the 25 cents an acre? A.—Yes, I thought it would, certainly.

Q.—You thought the 25 cents an acre was the purchaser's commission, so to speak? A.—Yes.

Q.—And that then there would be a commission to be paid by the vendor, having regard to the fact that he was getting \$5 an acre for his land? A.—I thought so.

Q.—Had you ever offered those lands at \$5 an acre? A.—Yes, I think so, but to no one in particular.

Q.—Let us know when you did that? A.—Well I do not think I ever got up against a buyer in reality with that.

Q.—You may not have got up against a buyer, but you got in the vicinity of a buyer with that in your mind? A.—Yes.

Q.—Was it before or after you saw Mr. Foster? A.—Before.

Q.—How long before? A.—Well it was during the summer some time.

Q.—Of 1903? A.—Yes. Of course I had heard from a gentleman who

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puts on a good many deals for Mr. Roblin, real estate deals, that he was willing to take \$5, and then I mentioned it to some one, but then I never mentioned that Mr. Roblin was giving me these lands for sale at all. I did not let on to him that I was taking any action trying to sell them before I met Mr. Foster.

Q.—Is it fair to put it this way, that you heard Mr. Roblin had these lands for sale at \$5 an acre? A.—In the summer, during the summer.

Q.—And that without discussion with Mr. Roblin you were interesting yourself in trying to effect a sale, believing some benefit would accrue to you if you had succeeded, if you had been of assistance? A.—I would have got half of the commission.

Q.—Who would have got the other half? A.—Fred Hamilton.

Q.—Who is he? A.—A real estate agent in Winnipeg.

Q.—Then is there any doubt in your mind as to Fred Hamilton's instructions to sell those lands at \$5 an acre? A.—Not during the summer.

Q.—That is to say he had instructions from Mr. Roblin to sell the lands at \$5 an acre? A.—He told me he had.

Q.—And you have not any reason to doubt but what that is the fact? A.—No.

Q.—And he was acting on that assumption? A.—Yes.

Q.—Trying to sell? A.—Yes.

Q.—And you had an arrangement with Hamilton whereby if you got a purchaser you would get half of his commission? A.—Yes.

Q.—And that commission would come out of the \$5 an acre? A.—Yes.

Q.—When was the price raised? A.—Well when I was going down to Toronto I said to Mr. Roblin "What is the price?" And he said \$7.

Q.—Now up to that time it had been \$5? A.—Up to that time I said that I thought it was \$5. I told him that I thought the price was \$5 and he said, "No, sir, \$7." Well I said "That is a pretty big price for it. I do not think you ought to ask that much." Well he said, "Those are good lands." So I went away with the \$7 proposition.

Q.—Sweetened with a commission? A.—No, he did not promise me any commission.

Q.—But I mean the price of \$7 an acre was sweetened with a commission of \$5,000? A.—Yes.

Q.—But did you learn from Roblin

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at that time that it was not correct that he had been offering them, or willing to sell them through Mr. Hamilton at \$5 per acre? A.—Well, I did not bring up that phase of the matter with him.

Q.—But when you spoke of it you suggested that Mr. Roblin denied something about the price. Did you gather that he denied that he had been holding them at \$5 and was willing to pay Hamilton a commission? A.—I did not mention Hamilton having offered them for that.

Q.—You did not mention the summer sale price? A.—No, I did not.

Q.—But what you learned at that time was that when it was broached that you should go down to Toronto and try to sell them to Mr. Foster, the price was fixed at \$7 with this commission? A.—Yes.

Q.—And you thought that that was a considerable price to ask for the land? A.—Yes, I did. I told Mr. Foster I thought it was a good price, too.

Q.—But you thought he should be generous at the Union Trust Company's expense, in order to help out Mr. Roblin? A.—You could not say that, because it might not be the Union Trust Company that was buying it.

Q.—Well, whoever was buying it, that would be the fact—leaving out the name of the purchaser— A.—To do the best he could.

Q.—On Mr. Roblin's account? A.—I suppose so.

Q.—Then when you got this offer from Mr. Foster of December 23rd, I suppose you regarded that as producing just the same result as if Mr. Roblin had sold the lands through Hamilton at \$5 and paid a commission? A.—That is the way I looked at it.

Q.—Providing you would get an additional commission besides this 25 cents which was being taken off the purchase money? A.—Yes.

Q.—Did you discuss that feature with Mr. Roblin at any later date? A.—He was not open for a discussion.

Q.—He was not open for a discussion. What do you mean by that? Did you try to get a commission from him? A.—He was too busy. When I started to talk about it he had not time to talk about it.

Q.—Did you get a commission? A.—He gave me \$500.

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Q.—Out of the purchase money?

A.—I do not know where he got the money from.

Q.—I mean to say it was not deducted in any way from this 25 cents an acre? A.—Oh, no.

Q.—It was out of the \$5 an acre?

A.—It was his own personal cheque.

Q.—And it just went in reduction to that extent of the \$5 per acre?

A.—Yes.

Q.—That the transaction netted him? A.—Yes.

Q.—Did you then remind him that he had been willing to sell the land at \$5 an acre through Mr. Hamilton and would have had to pay a commission, and that he ought to pay you a commission? A.—He would not discuss the matter.

Q.—And for that reason do you say you did not tell him all that? A.—I told him, and he said, "You went down there as my private secretary." That is as far as he would go.

Q.—Were your expenses paid? A.—I paid my expenses.

Q.—And they were not returned to you? A.—I do not remember anything ever being given me.

Q.—You think your expenses came out— A.—I may have got something on account of expenses, \$50 perhaps.

Q.—From whom? A.—Mr. Roblin.

Q.—And that ended your transaction with him regarding commission, did it? A.—Yes, that was the end of it.

Q.—And he was so busy that you hadn't a chance to tell him and remind him that in the summer he was willing to sell them at \$5 and pay a commission? A.—That is right.

MR. KENT: Q.—Was your salary paid during the time you were in Toronto? A.—Well, I was on my annual holidays.

Q.—But your salary is paid during your holidays? A.—Yes.

Q.—Then, as a matter of fact, you were acting as his private secretary during this time? A.—On leave of absence.

Q.—You had not been discharged? A.—No.

MR. TILLEY: That is all I have to ask Mr. Pritchard just now, but in view of the papers not being produced I would like to consider that matter with Mr. Shepley before treating his examination as closed, and I would ask your Honours to let it stand until the morning.

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JUDGE MAC TAVISH: Yes.

MR. KENT: Q.—Before we adjourn, I would like to ask you if the \$1,000 which you threw upon the waters came back to you after many days? A.—No, it has not returned yet.

MR. TILLEY: At Mr. Hellmuth's suggestion, I would ask the witness some questions.

Q.—How did you come to leave the position that you had in the Prime Minister's office? A.—I voluntarily resigned.

Q.—Were you discharged? A.—No.

Q.—Did you resign in any way as the result of the transactions that you have told about in your evidence? A.—No.

Q.—What prompted you to resign? A.—Well, they appointed another Deputy Minister over me again for about the third or fourth time since I have been in the service, and I said it was the last time, and I sent in my resignation. It was the Deputy Minister of Agriculture I refer to. I stood for that.

Q.—That was in the Agricultural Department? A.—Yes.

Q.—What were your duties there? A.—Accountant.

Q.—Carrying on that work— A.—As well as private secretary.

Q.—During the time you were private secretary to the Prime Minister? A.—Yes.

Q.—During all the time for the last many years? A.—Yes.

Q.—And it was in that department that the Deputy Minister was appointed, a position that you thought that you should have by reason of your length of service? A.—Yes, I filled the position of Deputy Minister several times.

Q.—You mean to say you had been acting Deputy Minister? A.—Yes.

Q.—And then a permanent Deputy Minister was appointed and you thought you should have received that position? A.—Yes.

Q.—And you resigned? A.—Yes.

Q.—So that your resignation had nothing to do with the matters you have told us about to-day? A.—Not that I am aware of.

(The Commission adjourned at 4.30 on Monday, November 5th, till Tuesday, November 6th, at 10.30 a.m.)

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NINETY-FOURTH DAY.

MORNING SESSION.

Ottawa, Tuesday, November 6, 1906.

INDEPENDENT ORDER OF FORESTERS (Continued).

MR. SHEPLEY: I am able to offer your Honours the testimony of a witness which will be very brief, and following upon that, and as soon as that is over, I shall ask your Honours to consider some matters for the future. There is the Underwriters' Association, and perhaps other associations which will desire to be heard, and as to which we think there should be a hearing, and perhaps we can discuss fixing a time for that. Then another matter which I am going to propose to your Honours is this; that we are, of course, at Ottawa for our last sitting, and we are here with the hope that the Commission will be able to prepare its report before the Commission is at an end with its sittings here. There are a great many matters, perhaps, which are ripe for your Honours' consideration in the Report, and in the intervals, while we are not able, for any particular reason in any particular case, to call a witness at the time, it seems to me, although the public sitting may be suspended, yet the sitting in Chambers for the purpose of promoting the consideration of the Report will probably carry us on, so that we may be making constant and satisfactory progress.

GERALD D. C. O'GRADY, sworn.
Examined by MR. SHEPLEY:

Q.—You are the Manager of the Crown Bank? A.—I am.

Q.—The General Manager? A.—Yes.

Q.—And you had to do in your office as banker with the transaction by which Mr. DuVernet became entitled to certain stock in the Union Trust Company? A.—Yes, sir.

Q.—Who introduced the matter to you? A.—Mr. Ormsby of Toronto.

Q.—In what capacity did you know Mr. Ormsby prior to that? A.—Well, I knew him as a personal friend and as a business acquaintance.

Q.—Then in what shape was the matter introduced to you by him? A.—He introduced the matter in this manner, that an option had been obtained, or an offer of an option, by Mr. DuVernet upon a block of

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stock in the Union Trust Company, of which stock Mr. DuVernet and his friends were prepared to take a third, and Mr. Ormsby and his friend were prepared to take a third, and he asked me if we would underwrite the remaining third, so that the transaction might be taken up.

Q.—You were party to all the subsequent negotiations? A.—Yes.

Q.—And those negotiations resulted finally in the agreement of the 3rd May, 1906, which is already exhibited here as Exhibit 475, made between the Foresters, Mr. DuVernet and the Union Trust Company? A.—Yes.

Q.—Then what did you know of Mr. Wilson in the transaction? A.—Nothing at all.

Q.—You did not know of him as to his connection with it? A.—Not personally. I knew of Mr. Wilson—I knew this of Mr. Wilson; that he held the matter in his hands. It was at his disposal. He might sell to whom he pleased.

Q.—And did you understand that he and Mr. DuVernet were in negotiation with regard to it? A.—Yes.

Q.—Then were you made aware of any arrangement with Mr. Wilson in respect of his receiving commissions in the matter? A.—Yes.

Q.—What were you given to understand with regard to that? A.—Mr. Wilson was to receive a commission of \$25,000, \$5,000 of which was to be in cash and \$20,000 in stock, which was to be delivered to him at the termination of the period fixed in the agreement of five years.

Q.—Are you aware of the passing of a cheque for \$5,000 upon your bank by Mr. DuVernet in favour of Mr. Wilson? A.—Yes, the payment of the \$5,000.

Q.—Will you be willing that we should exhibit this, or do you want it back again? A.—Well, I should prefer to hold it.

JUDGE MAC TAVISH: Just take a description.

WITNESS: If you give me a receipt for it I will give it to you. I merely have to give an account of that to Mr. DuVernet.

MR. SHEPLEY: Q.—We will have a copy made and it will be handed back to you before you leave. (Exhibit 666.) A.—Very well.

Q.—Were you made aware with regard to a cross transaction between Mr. Wilson and Mr. DuVernet in

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respect of Mr. DuVernet's proportion of this block of stock? A.—Yes, I was advised by Mr. DuVernet that Mr. Wilson desired to retain a share in the stock as divided, and he had applied to Mr. DuVernet for a portion of the third that he had undertaken to place, and Mr. DuVernet finally consented to give him that third upon the deposit of a sum of money which was to be forfeited if he did not take it up.

Q.—Did you understand the amount? A.—I was told that it was \$2,500.

Q.—Then how was it that you came to be informed of the arrangements you speak of as to the commission, and of the acquisition by him of an interest under Mr. DuVernet? A.—Well, it was understood in connection with the underwriting of the stock that the different parties should not dispose of their holdings without consent of the others.

Q.—And therefore it became necessary for Mr. DuVernet in the first place to seek your consent to the stipulation in regard to the commission in stock. A.—That is the way I understood it.

Q.—And also to seek your assent with regard to the giving of an option? A.—That is as I understand it.

Q.—Then do you know what became of the \$2,500 that was put up for the sub option by Mr. Wilson? Did it become forfeited? A.—Yes.

Q.—And what became of it? A.—Re-deposited in the account.

Q.—What account do you speak of? The Syndicate account? A.—Yes.

MR. SHEPLEY: I think that is all.

MR. HELLMUTH: No questions.

MR. SHEPLEY: Q.—You were good enough to say that if it is in existence you will let us have the draft of this agreement? A.—Yes.

MR. SHEPLEY: I do not finally excuse Mr. O'Grady, but that is all I want to ask him at the present moment. Perhaps your Honours would let Mr. Tilley address you on the subject of the future proceedings.

MR. TILLEY: The next witness that we propose to call is Mr. Griffin, of the C.P.R. Land Office, and there are many papers that he has to produce, and I suggest that we should adjourn now till two o'clock and then go on with Mr. Griffin.

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JUDGE MAC TAVISH: Is he here?

MR. TILLEY: He will be here at 2 o'clock.

JUDGE MAC TAVISH: Very well.

MR. TILLEY: If your Honours will adjourn now till two o'clock we can go over the matter in the meantime and take it up at two.

MR. H. W. WHITLA: On behalf of Mr. Roblin, I desire to be permitted to say a word.

JUDGE MAC TAVISH: Yes.

MR. WHITLA: I received a message last night from Mr. Roblin, in which he stated that he would be very agreeable to attend here on the 11th and give any evidence that the Commission might wish to hear from him, as far as his knowledge goes.

JUDGE MAC TAVISH: We will be sitting here on the 11th, I expect, Mr. Whitla, and will be very glad to have Mr. Roblin before us.

MR. HELLMUTH: The 11th is a Sunday.

JUDGE MAC TAVISH: Well, we will not sit on that day. I see by the newspapers that Mr. Roblin will be here probably for some days in his capacity as Prime Minister of Manitoba, in reference to some matter between that Province and Ontario and the Dominion, and when Mr. Roblin sees what has been disclosed, if he desires to make any statement in reference thereto we will be very glad to hear it indeed.

MR. WHITLA: I wired him last night that the Commissioners, I understood, would be glad to hear him. I thank you.

JUDGE MAC TAVISH: Have you any announcement to make as to the Underwriters' Association or the agents?

MR. TILLEY: We had intended having the Life Underwriters' Association here on Thursday, but I have been informed since your Honours commenced this morning's sitting that Mr. Allen, who, I understood, was not well some days ago, is still on the sick list, and it is suggested that it would be quite impossible for him to be here on Thursday, but I propose telephoning to Montreal about that subject this morning. It would not be quite fair to the Underwriters' Association to go on without Mr. Allen, who is their President, if we can arrange some day on which it would be convenient for him to be here.

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JUDGE MAC TAVISH: If there was a reasonable prospect of his being able to attend, of course we would not like to close without his statement.

MR. TILLEY: I propose to try and arrange that matter by telephone this afternoon for either tomorrow or Thursday, if possible. We will probably be able to say more about that at two o'clock.

JUDGE MAC TAVISH: What about the agents?

MR. TILLEY: That is the agents' association.

JUDGE MAC TAVISH: I was speaking with reference to any communication with agents outside the association.

MR. TILLEY: I proposed to ask Mr. Allen whether there were any other representative bodies not members of their association. I think the Commission will be glad to hear any persons who are not members of the association—not all persons who are not members of the association—but some representative persons who are outside of the Underwriters' Association, and I had intended ascertaining from Mr. Allen who might be representative men to invite to be here. Of course in this public way we would like to say to all agents that we would be very glad to hear any persons who desire to attend whenever a date is fixed, and we propose to try and have that arranged by two o'clock this afternoon.

JUDGE MAC TAVISH: We will adjourn the public hearing now until two o'clock. The Commissioners will meet in the meantime and discuss matters that have already been given to us in evidence and as to the future proceedings.

(The Commission then adjourned till two o'clock.)

AFTERNOON SESSION.

Resumed at 2 p.m., November 6th, 1906.

FREDERICK L. GRIFFIN, sworn.
Examined by

MR. SHEPLEY: Q.—You live in Winnipeg? A.—Yes.

Q.—And you are the Land Commissioner for the C.P.R.? A.—Yes.

Q.—How long have you occupied that office? A.—Since September, 1901.

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Q.—Then, speaking generally, and not in detail, but in outline, what are your duties as Land Commissioner? A.—Well, I have charge of the administration of the land department, the sale of lands, and in fact everything connected with the administration of the land department.

Q.—Is it part of your duty to fix the prices of land which you are selling? A.—Yes.

Q.—What control are you subject to in connection with, for instance, the fixing of the price of land? A.—Well, always subject to the control of the executive of the company of course.

Q.—You mean the board of directors? A.—Yes.

Q.—What is the origin of your company's title to the lands that you have control of? A.—It was a subsidy in connection with the construction of the railway.

Q.—Then there are various subsidies, so that there are various tracts of land held by substantially different titles? A.—Well, there was the main line subsidy which was 25,000,000 acres, and there were various other subsidies for the construction of branch lines, for instance, what we call the Souris branch line, something in the neighborhood of 3,500,000 acres.

Q.—And there are other branches as well? A.—Yes.

Q.—In respect of which there are subsidies? A.—Yes, the Manitoba and Southwestern.

Q.—I do not want to trouble you to enumerate them all in detail, but generally speaking that is your title? You have a title to the original subsidy by virtue of the original Act in respect of your main line? A.—Yes.

Q.—Then you will have titles by subsidiary subsidies so to speak in respect of certain branch lines? A.—Yes, sir.

Q.—Speaking again, generally, is there some rule with respect to your right of selection under the terms of your subsidies? How do you select? A.—Well, in the main, I think in all the main line subsidy, I think in all, practically all the subsidy lands the company were entitled to receive lands which were fairly fit for settlement.

Q.—And was there anything with respect to the alternation— A.—The odd sections, of course—the odd sections in whatever reserves were set apart for selection.

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Q.—Then what is the system of notation of land there? You have certain ranges? A.—Yes.

Q.—Which go east and west from a meridian? A.—Yes.

Q.—Then you have townships in these ranges? A.—There is a principal meridian, and the townships commence from the international boundary and the ranges from the principal meridian, by ranges to the various other meridians which have been established.

Q.—Then the ranges give you the location from east and west? A.—Yes.

Q.—And the townships give you the notation from north to south? A.—From south to north.

Q.—If you will take one of your maps just at random, I would like you to illustrate that because it is useful for me to know about? A.—I do not know that I have a map going to the international boundary.

Q.—That would not make any difference so long as you have a map on which you show in outline what you are speaking of? A.—Here is a map. This is a map of a portion of northern Alberta.

Q.—And just to get at what we are at, the top of the map is north? A.—The top of the map is north, and the bottom of the map is south. This commences at township 35.

Q.—That is there are 34 townships between the south side of this map and the international boundary? A.—Yes.

Q.—This runs up from 35 to 68? A.—Yes.

Q.—Then your ranges are indicated with notations at the top and bottom? A.—Yes.

Q.—This is range 9? A.—Yes.

Q.—From 9 to 22? A.—Yes.

Q.—And then on further? A.—Yes.

Q.—But those are the ranges west of the principal meridian? A.—Those are ranges west of the fourth meridian in this particular case.

Q.—That will not affect the general principle? A.—No.

Q.—That your ranges give you the location from east to west? A.—Yes.

Q.—And your townships give you your notation from the boundary? A.—From south to north.

Q.—I see on this map certain sections, are marked red. In each of these squares embraced in the junction of two numerals, the top numeral and the side numeral—is each of

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these a township? A.—Yes, each of these squares is a township, six miles.

Q.—Then the smaller squares in red—what are they? A.—They are sections, 640 acres.

Q.—And they are numbered in such a way that there are odd numbered sections and even numbered sections? A.—Yes.

Q.—And your subsidies, generally speaking—? A.—Are for the odd numbered sections.

Q.—That means that you may go into the area which your subsidy covers and select odd numbered sections, having regard to the provisions as to quality, out of the various townships that are within the subsidy area? A.—Yes.

Q.—I just wanted that general explanation for a moment. Now we will go into the precise matter which we are concerned with. You remember being approached by Mr. Pope and Mr. Fowler, or one of them, in respect of the purchase of certain of your subsidy lands? A.—Yes.

Q.—How did that negotiation open? A.—It originated with a letter from Mr. Pope to me early in October of 1902.

Q.—And you furnished me here I think with a complete file of the correspondence from October, 1902, down to June, 1903, so far as it exists either in your office or in the office of the executive at Montreal upon the subject of this particular matter? A.—I think you have everything, the whole correspondence that occurred in connection with the transaction.

Q.—And this is a full copy of it which you have been good enough to have prepared for me? A.—I prepared a complete copy.

Q.—And this includes not only the correspondence with yourself, but the correspondence which you have examined also yourself in the office at Montreal? A.—It comprises everything.

Q.—It comprises everything there is in the nature of correspondence? A.—Yes.

MR. SHEPLEY: I am going to dispense with the production of the originals and I may state that I have seen the original correspondence, and this copy will serve all purposes and will be marked exhibit 667.

Q.—The first letter I find is a letter of the 4th October, 1902, from Mr. Pope to you, dated at Montreal, and I am going to read that to you

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so that we may lay a foundation for the question I want to ask you. "A number of gentlemen and myself are about forming a colonization company for the purpose of acquiring and settling a tract of land." (Reads letter). That was the first intimation you had of any desire to negotiate for the purchase of land on the part of these gentlemen? A.—So far as I recollect of.

Q.—He speaks here of having been in your office in Winnipeg but not having seen you. You had not had any interview with him upon the subject before this letter? A.—No, I had not. I was absent.

Q.—Can you show us just at this stage a map covering the area indicated in this letter, the valley of the Saskatchewan near the Vermillion district? A.—There are two maps which cover it.

Q.—These two, the one we have already looked at for the purpose of getting a general idea of ranges and townships, and another one which you now show me? A.—Yes, those two cover the whole district in question.

Q.—And the one which you have put at the right, and which shows the course apparently of a railway— A.—Well, of course this is a later map in which the railway which was then in contemplation is shown as completed.

Q.—I understand that, but the one in which the railway is shown—I just want to identify it—the one in which the railway is shown running generally up the valley of the Saskatchewan is the easterly map of the two? A.—Yes.

Q.—Covers the easterly area? A.—Yes.

Q.—And the one with Beaver Lake in it showing— A.—It extends from the third meridian to the fifth meridian, comprising the whole of the—

Q.—Is that the third meridian west of the principal or west of the fourth meridian? A.—The third meridian west of the principal meridian.

Q.—Then do the red squares in these two maps show generally the location of your odd numbered sections in the various townships over which you had the right to select? A.—Yes, generally? This is a recent map in which many of the lands which were originally selected by the company or set apart by the company are not shown.

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Q.—They have been eliminated?

A.—Yes, because they are not for sale, or they are eliminated for some other reason.

Q.—In other words not having been taken up, or having been taken and sold, or otherwise withdrawn from sale, they are not shown on the map? A.—Yes.

Q.—And the map which would be in existence at the date of the opening of this correspondence would not show any railway located upon the map as these two maps do? A.—No, they do not.

Q.—There is that important difference. Show me which is the Vermillion district, and how does it get its name? A.—The Vermillion district is a somewhat extensive district. The Vermillion river takes its rise about fifty miles east of the Calgary and Edmonton Railway and in about township 49. It flows northeasterly towards the North Saskatchewan river, trends easterly for something like—

Q.—Approximately? A.—100 miles, and then flows northerly into the North Saskatchewan River.

Q.—And that is what is called the Vermillion River district? A.—The Vermillion River district.

Q.—And that is a district which upon the maps that are before you now will overlap the two maps by taking it just as the maps are there, without regard to the number of miles, by about 18 inches covering the two maps? A.—Yes.

Q.—That is what would be called the Vermillion district? A.—Yes.

Q.—Will you give me the termini of it in a rough fashion? That is from range to range east and west? A.—It rises in or about range 16 west of the fourth meridian. It flows into the Saskatchewan in range three, west of the fourth meridian.

Q.—Then that is west of the fourth meridian that you are speaking of now? A.—Yes, west of the fourth meridian.

Q.—Then with regard to the suggestion in the letter that Mr. Pope had been informed that the price in the district was \$3.50 per acre what would you say with regard to that as a matter of fact at this date, 4th October? A.—Well, up to that time we had been selling land throughout that district at \$3.50 per acre.

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Q.—That is in the Vermillion district? A.—In the Vermillion district.

Q.—And what was the nature of your sales, having regard to bulk?

A.—Well, we had not made any large individual sales. The inquiries were mostly from settlers and purchasers of individual parcels of land, probably not in the ordinary way exceeding one section of 640 acres.

Q.—That would be the generality of the demand that was then being made for the land? A.—Yes, the generality would be probably less than a section.

Q.—Had you made any considerable sales within a few months before the 4th October? A.—So far as I can recollect we had made no—you mean large individual sales.

Q.—Yes, large individual sales? A.—We had made no large individual sales, but there had been a very active demand.

Q.—By settlers? A.—By settlers and by individual purchasers, in the most westerly portion of the Vermillion River district—that is that which is nearest Edmonton.

Q.—That would be commencing at the first of the ranges that remained?

A.—Commencing at the most westerly of the ranges and extending easterly.

Q.—Then you seem to have answered that letter on the 15th October? A.—Yes.

Q.—And your answer is as follows: (Reads letter). The first statement I ask you about is this "We have recently advanced the price of the company's lands in that district and the neighborhood of the North Saskatchewan Valley territory to \$5 per acre." Tell me about that, please? A.—Well the demand had been increasing in that territory. The Canadian Northern had projected a line into that territory, their line between Winnipeg and Edmonton.

Q.—You were aware generally of their scheme? A.—Oh generally we were aware of their scheme, and I thought it was time that we should increase the price of our land in that district, and we advanced the prices at that time.

Q.—Had you made that decision to advance prior to the receipt of the letter of the 4th October? A.—Well I had been absent for several weeks on an inspection trip throughout the territory easterly from the Saskatchewan Valley, not in that particular territory, and I had come to the conclusion that our prices should be ad-

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vanced, and when I returned—of course I cannot speak definitely to a few days—but when I returned I received Mr. Pope's letter intimating that he desired to purchase a large tract of land in that territory, and as our sales had been quite active, our enquiry had been quite active, I thought it was time that our prices should be advanced, and I advanced them.

Q.—You did advance them? A.—I advanced them on my return.

Q.—And I take it from what you tell me that you did not advance by reason of the request that was being put forward by Mr. Pope, but by reason of your general idea as to the future of these lands? A.—Generally that was the—

Q.—And the state of the demand?

A.—And the state of the demand, and of course each additional demand naturally.

Q.—Naturally stiffened the price?

A.—Yes.

Q.—You say that the demand was active, and that there seemed to be a probability of activity in the market for these lands. Your record—you have them here—if they are referred to will they confirm that? A.—Yes, I am sure they will.

Q.—Perhaps somebody else will want to look at them? A.—No, not at all.

Q.—That your records will confirm what you say? A.—Yes, I know there was an active demand.

Q.—You spoke about the projection of a railway there. I suppose at that time it was in a rather inchoate state, or how was that? A.—Well it was generally known that the Canadian Northern Railway had surveyed a line through there, and it was generally known about where that line must be located. It was not the first survey of a railway line through that country. It was generally known that a railway line to connect a point somewhere in the neighborhood of Saskatoon and Edmonton must naturally follow a particular course generally.

Q.—That is within certain variable boundaries? A.—Yes, within some few miles.

Q.—You were alive to that I suppose? A.—Oh, we knew generally where a railway must go.

Q.—What would be the effect upon the value of the land which you continued to hold of the construction of such a railway? A.—Well naturally the demand for land increases with

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the prospect of the construction of a railway.

Q.—That is where there is an inlet and an outlet by way of steam, the lands tend to increase in value? A.—Yes, certainly.

Q.—Then I should gather from the terms of this letter that you were not particularly anxious to sell at this time lands which were likely to be reached by the projection of the railway, and lands in respect of which even then there was a considerable activity? A.—Well I understood from that letter that Mr. Pope desired me to set apart a very considerable tract of land from which he should be allowed to select 200,000 acres of land, ostensibly with the idea of colonizing it. Well this was in October, 1902. This was approaching the close of the land selling season in 1902, and I do not think that it was in the interest of the company to set apart a very large tract of land from which Mr. Pope and his associates should be permitted to select 200,000 acres of land. As far as the colonization feature of the proposal was concerned I did not take very much stock in it because I did not think it was practicable at that distance from the railway.

Q.—The then existing railway? A.—The then existing railway.

Q.—The colonization scheme would probably have to await the actual construction of a railway? A.—Yes, I certainly thought so.

Q.—And you thought, therefore, that if they were buying with a view to a colonization scheme they were premature? A.—That was my idea.

Q.—Just one other question about this matter. You say you did not think it would be in the interest of the company to make any material reduction from their schedule price. Do you mean from the \$5 per acre? A.—I mean from \$5 per acre for selected lands.

Q.—When you say that you will have to give us perhaps a little explanation of that so that we may be quite clear as to what you mean. You make a distinction between selected lands and something else? Just elaborate that distinction so that we will understand? A.—I make a distinction between lands which are selected by individual sections, or portions of sections, and lands which comprise the general run of lands in a certain district. There is a very great difference in value between the inferior lands in a town-

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ship and the best lands in a township in almost any township.

Q.—It follows from that that if you make an average price of your lands, you do not want anybody to come in at your average price and select the best lands? A.—No, that is it.

Q.—That is it put in a nutshell? A.—The best of the lands, our experience has been that the best of the lands increase much more rapidly, in value than the inferior lands in the township. The C.P.R. Company were compelled under their charter to take all of the lands which were fairly fit for settlement. They could not—

Q.—They could not pick the best? A.—They could not pick the best. They had certain areas reserved for them upon which they were required to take all of the land which was fairly fit for settlement, and could not get additional reserves until they had—

Q.—Until they had exhausted— A.—Until they could show that the areas which were already set apart for them were not sufficient to furnish the required quantity of land.

Q.—The required quantity of land, having regard to its being reasonably fit for settlement? A.—Yes.

Q.—And not with regard to it being choice or select land? A.—Yes, fairly fit for settlement.

Q.—Let me come back again to your \$5 per acre, the price which you had put upon these lands. Was that \$5 per acre an average price to cover all the lands that were fit for settlement? A.—No, we advanced our price to \$5 per acre because individual purchasers naturally selected the best lands. A settler or even an investor going into a certain district would naturally pick upon the best land which he could secure in any particular township which he might examine, and that price was supposed to be the price of the best lands in the territory.

Q.—That is you were fixing a price having regard to individual demands? A.—To individual demands.

Q.—And having regard to the fact that people who were making individual demands would select the choicest of the land? A.—Certainly.

Q.—Then you wanted \$5 per acre upon that basis? A.—That was my idea.

Q.—Do I understand you to say— because I want to have it just as it

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was—do I understand you to say that if you had been fixing a price having regard to the general run of the land that you had to sell, that it would not be as much as \$5 per acre? A.—Well, certainly not. Of course the ordinary demand for land is in individual sections.

Q.—I quite understand that? A.—And if the demand continues—

Q.—The best sections are taken up? A.—The best sections are taken up, but it is only in a small way. It is only in a way in which we can keep track of from day to day, and the company, and any land company that is holding a large tract of land, expects to take advantage of the increased demand which comes from day to day.

Q.—By way of enhancing the value of the remaining lands? A.—Of the remaining lands. That is something you can keep track of from day to day. You can sell eight or ten sections to-day which does not perhaps cut very much figure, and the next day, if you see this demand continuing, you can increase the price, but when it comes to a demand for 200,000 acres of picked sections, then you have got to stop and consider whether it is in the interest of the company to sell at a certain price or not, and it all depends on what particular lands are applied for and what you have remaining afterwards.

Q.—Let me see if there are two elements. I think you indicate two. Let us see if we have it as it is. Assuming all the lands to be of the same quality, there would be some reduction for taking a large quantity? A.—Certainly, there is a wholesale idea about it.

Q.—Assuming the lands to be of variable quality, there would be a difference if the person who made the demand would take all the varying qualities, leaving lands, which, taking them good and bad, were as good as those that were taken? A.—Certainly.

Q.—That would also make a difference? A.—Yes.

Q.—That is, it would make a difference in the way of making the price less onerous to the purchaser? A.—Certainly.

Q.—Then when you state here “I do not think, therefore, that it would be in the interest of the company at present to make any material reduction from their schedule price to encourage the sale of a large tract

such as you mention.” What had you in view? A.—I had in view this, that I did not think that the sale of a large tract in itself was of very special benefit to the company, if it meant that in the whole territory that was generally spoken of, the best lands would be selected.

Q.—And you did not think there would be immediate colonization there? You were interested, of course, in rapid colonization? A.—We were interested in colonization, and, of course, we were also interested in the price which we should get for the land, but if out of a very large territory the best lands were selected to make up something like 200,000 acres, it would mean that we would get a very much—we would probably get a very much smaller price for the rejected lands later on than if a selection were made which comprised lands of a general character.

Q.—Of the general run of quality? A.—Extending from the lower to the higher quality.

Q.—Then, as I understand from what you say, you, in the first place, answered as you did in this letter because you thought the proposal was to pay you so much and pick the land? A.—Yes, that was my general idea. I did not think there was anything in the proposal, at that season of the year, that it would be in the interest of the company to consider.

Q.—That is, to consider a reduction for a large quantity? A.—Yes.

Q.—Supposing instead of the negotiations which subsequently took place—I want to get a clear idea of what you mean—supposing Mr. Pope had immediately answered this, saying, “I won’t ask any reduction from the schedule price, I will pay you \$5 per acre,” you would have been in a position to deal with him, and would have dealt with him, no doubt forbidding him to pick? A.—Well, I am not sure.

Q.—You are not sure whether you would or not? A.—I am not sure that even then it would have been in the interest of the company to accept \$5 per acre for 200,000 acres apart from the whole territory which he spoke of generally. In fact, I would not have been inclined from what I can think now, and what I can think of as to how I would have dealt with an application of that

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sort at that particular time, I would not have been inclined to consider it.

Q.—And the general tone of your letter accordingly seems to be discouraging, rather throwing cold water upon the project? A.—I do not think there was anything in it in the way it was proposed.

Q.—Then I take next in order of date a letter of the 26th October. This is from the executive file, and I daresay we shall not get perhaps much information about it beyond its bare contents in what you may say to us. It is dated from the Windsor Hotel, Montreal, from Mr. Pope to Mr. Fowler. (Reads letter.) You do not, of course, personally know anything with regard to that? A.—No.

Q.—But there is a statement here I would like to ask you about. "You will appreciate that we applied for the land when the public price was \$3.50." Was there any other application beyond the letter of the 4th October to which I have directed your attention? A.—Well, there was the verbal enquiry.

Q.—When you were not there? A.—Yes, and they were probably informed that the general price at that time was \$3.50 an acre.

Q.—Would the \$3.50 per acre in a quantity like this permit picking? A.—Well, it would not in a quantity like that. We were dealing with settlers and applicants for individual parcels of land.

Q.—And I ask you, because nobody can know that but yourself, you would not on the 4th October have permitted picking out of the large area to the extent of 200,000 acres at the price you were then asking from individual settlers? A.—No, I think not. There had been no such enquiry up to that time.

Q.—Then there seems to have been an arrangement for an interview between Sir Thomas Shaughnessy and these three gentlemen made on the 28th October by letter of that date, which I pass over, and what was the next you heard of it? Because the next thing in this correspondence is a letter from you of the 22nd November. What happened between the time you answered Mr. Pope's letter and the 22nd November when you wrote to Sir Thomas Shaughnessy? A.—Well, in the meantime, Messrs. Pope and Fowler, having had an interview with the president on the subject,

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came to Winnipeg and remained there for some days, I am not able to recollect how many days, and they made enquiries evidently into the character of the different parts of the Saskatchewan Valley with respect to which they had made enquiries before, and they then named certain townships out of which they proposed to take 200,000 acres of land.

Q.—Now, was that before or after you had been in Montreal? A.—That was before I had been in Montreal.

Q.—That was before you had been in Montreal? A.—Yes.

Q.—Before they came to Winnipeg to see you had they any arrangement with you as to price at all? A.—Certainly not.

Q.—None whatever? A.—No.

Q.—There had been no further correspondence than is shown in this file between you and them? A.—Absolutely nothing so far as I recollect.

Q.—And had you had—let me ask you about that particularly—had you had any intimation from the executive, from Sir Thomas Shaughnessy or from anybody else, with regard to the matter? A.—In what way?

Q.—With regard to the price of the lands when they came to you? A.—Oh, certainly not. I had no intimation whatever.

Q.—You had had no intimation whatever? A.—No.

Q.—As I understand it they came to you after their interview with Sir Thomas Shaughnessy and without you having relaxed your terms with respect to the land communicated in your letter of the 15th October, they came to you in that condition of affairs. What took place between you and them? You were telling me about their making enquiries with regard to the land. What took place between you and them. In the first place who was it came? A.—My recollection is that both Mr. Pope and Mr. Fowler came.

Q.—Do you recollect what took place between you and them upon the subject of these lands? A.—Only in a general way. They then made enquiries—

Q.—Did they say anything to you with respect to what had passed between themselves and Sir Thomas Shaughnessy? A.—I have no recollection of it.

Q.—No recollection of their having said anything? A.—Nothing more

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than that they had discussed the matter with Sir Thomas and had come back to take it up with me.

Q.—To take up what with you?

A.—The purchase of the land.

Q.—Were they coming to you with a view to re-negotiating about prices as you understood? A.—Yes.

Q.—How was that? A.—They were coming to me with practically a re-negotiating for lands they wished to purchase.

Q.—Now, then, having told me that will you tell me as nearly as you can recollect at this distance of time what took place between you and them with regard to the matter? A.—I have only a general recollection of the conference, but as far as I remember they were there some little time. It might have been a week and it might have been two weeks, and I think we placed any information we had at their disposal. We naturally would, and they got as much outside information as they could, and they then named certain townships in three separate blocks. The most westerly was south of Birch Lake. The intermediate block, about 40,000 acres, was some distance west of what is now Lloydminster, and the remainder is in what is known as the Elbow Country, north of the North Saskatchewan, between what is known as the Elbow and Jackfish Lake, or in that neighborhood.

Q.—Were you aware then or were you made aware at this time what the actual course of the Canadian Northern Railway was to be? A.—Well, I knew generally where it must be. The physical conditions of the country tied it down to—

Q.—To a few miles either way? A.—Well, not very far.

Q.—And you were familiar with the physical conditions of the country of course? A.—Yes, I have driven over it.

Q.—You had made it your business to be familiar? A.—Yes.

Q.—You were aware in a general way of the course which the Canadian Northern must take? A.—Yes.

Q.—Although you did not know—A.—Did not know actually.

Q.—Did not know actually what the precise location of the road would be? A.—No, I knew generally, or thought I knew generally where it must go owing to the physical features of the country.

Q.—You did not perhaps feel at all that you were dealing with them

on uneven terms with respect to that knowledge? A.—No.

Q.—Well, then, they selected certain townships, and what about the prices? What was the negotiation with regard to prices between you? A.—Well, they named certain townships with an understanding that they would take the general run of the land in those townships, what we had remaining.

Q.—The general run? A.—Yes.

Q.—That is, they were not to confine themselves to the best? A.—No, they could not pick the best. Of course this was only a general conversation.

Q.—You did not at that conversation—perhaps we may as well have it down here—you did not on that occasion come to any arrangement with them? A.—No, certainly not.

Q.—But at all events the basis upon which they were negotiating then was not that they should pick the best, but that they should select indifferently according to the general run of quality? A.—That was the idea.

Q.—Will you tell us how you would secure their selecting upon such a basis as that? How would you provide for that so as to secure yourselves? What would be the way of doing that? A.—My recollection is that I selected what was to be reserved.

Q.—That is, you made the selection of what you would keep? A.—Yes.

Q.—That is what they must not take? A.—What they must not take.

Q.—And if you made your selection according to the average run then they must pick according to the average run of what was left, or else they would not get their quantity? A.—They could not get their quantity. Of course that was not made until sometime afterwards.

Q.—Are you able to show us to-day, approximately at all events, the location of the lands that they then had in mind? A.—Well, I have the maps which are attached which I sent to the president at the time.

Q.—That will be useful? A.—And I have a copy of the letter which I sent to the president at the time.

Q.—That is in the file, but the map is not in the file? A.—Yes, it is in our file.

Q.—But it is not on the copy you gave me? A.—No.

MR. CREELMAN: We can get another copy of that made.

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THE WITNESS: I have a map of the district, but it does not show it exactly.

MR. SHEPLEY: Q.—I want now to get what was then talked of as the lands they wanted to have reserved? A.—Well, those are the lands shown in green on the map.

Q.—Let us get a little description down upon the notes. They range from— A.—It is very easy to get an exact description if you wish me to name the townships.

Q.—Yes? A.—Townships 39, 40 and 41 in range 8. Those are all west of the third meridian. Townships 40 and 41 in range 9. Township 40 in range 10. Townships 38, 39 and 40 in range 11. Townships 40, 41, 42, 43 and 44 in range 12 north of the Saskatchewan river.

Q.—That is, the whole of 28 is not north, but all that is north is in the block? A.—Yes. All that part of township 41, range 13, lying north of the Saskatchewan River, and the whole of townships 42, 43 and 44 in range 13.

Q.—Then in range 14? A.—In range 14 there is all of that part of township 41 lying north of the Saskatchewan River and the whole of townships 42, 43 and 44.

Q.—Then in range 15? A.—In range 15, all that part of township 42 lying north of the Saskatchewan River, and the whole of townships 42, 43, 44 and 45. In range 16 all that part of township 43 lying north of the Saskatchewan River and townships 44, 45 and 46. In range 17 all that part of township 44 lying north of the Saskatchewan river and townships 45, 46 and 47.

Q.—In 18? A.—In range 18 all that part of township 46 lying north of the Saskatchewan River and townships 47 and 48.

Q.—And in range 19? A.—Range 19, all that part of township 46 lying north of the Saskatchewan River, and townships 47 and 48. Then in townships 50 and 51, range 3 west of the fourth meridian, and townships 50 and 51, range 4 west of the fourth meridian. The west half of townships 47, 48 and 49, range 10 west of the fourth meridian. All of townships 47, 48 and 49, range 11, west of the fourth meridian, and all of townships 47, 48 and 49, range 12, west of the fourth meridian. That comprised the whole.

Q.—And how many acres approximately would there be in that? A.—Approximately 300,000 acres.

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Q.—And what they desired to have you do was to hold these lands, hold all these townships in possession?

A.—Well, at that time I was under instructions to go to Montreal on other land matters, and it was proposed that the price should be discussed at Montreal.

Q.—That was not exactly what I was aiming at. Assuming that you acceded to their proposition to reserve all these townships, what was their right of selection in respect of this large area? A.—It was proposed they should take an average quality.

Q.—That is that they should not pick out the best? A.—Yes, I do not think we had gone very closely at that time into areas, but that was the general idea.

Q.—Were you yourself proposing to yourself—perhaps you did not say anything to them about it—to secure yourself in respect of that in the way you have stated by yourself reserving— A.—Well, until we went to Montreal and discussed it in detail I have no recollection of going very closely into those matters.

Q.—Apparently there does not seem to have been much done as far as you and they were concerned beyond their indicating the territory over which they desired to make their selections? A.—Yes, and I told them that in the meantime we would not sell the land in those townships in any large way. We would deal with actual settlers and would wait and discuss the sale at Montreal.

Q.—You did not conclude anything at all? A.—No, there was nothing concluded.

Q.—Practically so far as you have told me, what was really done was that they were able from the enquiries they made to indicate the territory over which they wished to select? A.—Yes.

Q.—You sent down on the 22nd November to Sir Thomas Shaughnessy maps of Northern Alberta and Saskatchewan, showing the lands which had been selected by Pope and Fowler, "which I have informed them we will withdraw in the meantime from sale except to actual settlers." Had you undertaken to do that? A.—Yes, I verbally said that we would not accept any stipulated application for those lands.

Q.—Until when? A.—Until we could take up the question of the purchase in Montreal.

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Q.—How soon after that did you expect to be in Montreal? This was the 22nd November? Were you then under instructions to go? A.—Yes, I was then expecting to go to Montreal very shortly.

Q.—Did you say it was in connection with other matters you had to go to Montreal? A.—Yes, in connection with other matters.

Q.—“I have had the examiner working through the most easterly block during the past season with a view of revising our selections in that district, and it will be in the interest of the company to take all lands therein which are at all fairly fit for settlement.” What are you referring to there? You yourself had not selected under your subsidy right? A.—We had made certain selections in 1901, a little more than ten years before.

Q.—1891 you mean? A.—1891 I mean, a little more than ten years before we had named a selection of something like 6,000,000 acres all through that northern territory, and in view of development I thought we should revise our selections and take everything that was at all fit for settlement in that locality. The railway was to be constructed, and I had the examiner at work at the time with that in view, and I did not wish to go into the question of price until I could get his report. I had been through the country myself and I wanted to ascertain from him how matters had been developing since, before I should recommend the purchase.

Q.—“I wish to defer my recommendation as to the price which the company should ask for the block until I can go carefully through our examiner’s report, which he will not hand in until his return in about a week or ten days. The tracts contain something over 200,000 acres of the unsold railway land.” You said about 300,000 acres? A.—They applied for 200,000 acres, and the tracts contained over 300,000 acres, something more than they wanted. I did not go into it definitely.

Q.—Do you say now after running over the townships as we have done, that it would be approximately 300,000 acres or less? A.—Approximately 300,000 acres.

Q.—Then I just read in passing the correspondence until Mr. Griffin comes into it again. November 25th, Mr. Pope writes (reads letter). Then

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on the 25th November Sir Thomas writes to Mr. Pope (reads letter). Apparently you were in Montreal on the 25th November because I see a memo from Mr. Griffin signed by Mr. Shaughnessy? A.—I was expected at Montreal and he made that memo so that it should not be overlooked.

MR. CREELMAN: Q.—That was a memo for his private secretary.

MR. SHEPLEY: Q.—So that you might be reminded of it? A.—When I arrived.

Q.—Then on the 5th December telegram (reads). Who is Mr. White? A.—He is the second Vice-President, I think, and has control of the western portion.

Q.—On the same day, 5th December, telegram, “If satisfactory to you would prefer to come on Monday,” and an answer on the same day, “Monday will answer.” Then what took place in Montreal, because the next is the 17th December, and you must have had your interview in the meantime. A.—Yes, we had an interview at Montreal on, I think it was the 8th December.

Q.—Who were present? A.—Mr. Pope and Mr. Fowler were present, and myself and Mr. White were there, and I think Mr. Dennis, who was our land commissioner at Calgary. He had charge of it.

Q.—Where did the meeting take place? A.—It took place in the board room as far as I recollect. I would not be sure whether it was the board room or the president’s office. I think it was the board room.

Q.—Had you an interview with the president or any one else representing the company upon the subject of these negotiations before the meeting? A.—Not so far as I can recollect.

Q.—Then let me put it a little more specifically. Had you any intimation or hint from Sir Thomas Shaughnessy as to his being willing to make concessions or anything of that kind? A.—Absolutely none.

Q.—That is what I wanted to get you to say one way or the other. Did you go to the meeting absolutely untrammelled by any instructions of any kind? A.—Absolutely untrammelled.

Q.—And you say that you had no intimation of any kind that you would be expected to cut down the price of the land? A.—None whatever.

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Q.—Now then, having prefaced your statement of the meeting with that, will you tell me what took place at the meeting? A.—Well, it is a long time since then, and I would not absolutely say what took place at the meeting.

Q.—Tell me your general recollection of what was done? A.—Because I do not absolutely recollect what took place I knew the substance of what was done.

Q.—Give us the substance? A.—I know that the question of price was discussed and the president asked me what, taking everything into consideration, would be a fair price to ask for these lands.

Q.—You say there was some general discussion. Let us see whether there had been anything to alter the basis upon which you had been negotiating at Winnipeg. At that time you told me the proposition was, although you say it was not discussed in any detail, that they should select average quality to the extent of 200,000 acres and not pick? A.—Yes. It was understood in these negotiations that there was something like twenty-five per cent. more than they required to make up the 200,000 acres and that we would retain an average of 25 per cent. of an average quality of land and allow them to have the remainder out of which they could select in a general way the 200,000 acres. It would give them a little more than 200,000 acres.

Q.—That is, you would take off the 300,000 acres 25 per cent., or about 75,000 acres? A.—Yes.

Q.—Leaving them with something like 225,000 acres? A.—Between 200,000 acres and 225,000 acres out of which they could select 200,000 acres.

Q.—And in making that selection they would be permitted, I suppose, to select the best they could, or is that right? A.—I do not recollect exactly what was discussed at the time, but I think it was understood that they must select by townships, because I knew that was embodied in the written agreement.

Q.—That was embodied in the written agreement which we will not come to for a little while. You think if they went into a particular township and made a selection there at all they were bound to take the whole township? A.—Yes.

Q.—That is, all the odd numbered sections? A.—Yes.

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Q.—Were you endeavouring to guard against their picking the best sections and leaving you the worst? A.—Certainly.

Q.—That was the object of what you were doing? A.—Yes.

Q.—And you were working towards that in the first place by reserving twenty-five per cent. or thereabouts? A.—Yes, an even twenty-five per cent.

Q.—Which they would not have any right to go into at all? A.—Yes, it was supposed to be the same quality.

Q.—And in making the selection of that twenty-five per cent. you would not, I suppose, be expected to pick the best? A.—Certainly not. I took as nearly as I knew what was a fair average.

Q.—Then, with regard to what was left they would have a general right to take the best they could find with this qualification, that if they selected in any one township they were to take all there was there? A.—That is the arrangement, that is the way I understood it.

Q.—Well, then, about the price, you were about to tell me when I interrupted you. What was arranged at this meeting in Montreal with regard to the price? A.—The president asked me under all the circumstances what would be a fair price for that quantity of land taken in that way.

Q.—Were all these matters that you have spoken of as qualifying the right of selection discussed, so that they were present to the president's mind when he asked you the question? A.—I think he understood them.

Q.—Were they present to your mind? A.—They were present to my mind and I think the president understood them. He generally understood everything of that sort.

Q.—What did you say? A.—I thought \$3.50 an acre, taking the land in that way, was a fair price. I recommended that price to the president and he agreed.

Q.—You thought \$3.50 was a fair price. You recommended it and the president accepted your recommendation? A.—Yes.

Q.—Just tell us in your own way what considerations moved you to fix that price, having regard to the evidence you have given us with regard to the actual demand, and with regard to your having raised the price generally to \$5 an acre? A.—Well, there were a number of matters. It

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might be somewhat a long story to tell.

Q.—I think you ought to tell us, if you will, what considerations operated? A.—I think I can state quite clearly what moved me to believe it was a good price at that time. In the first place the most easterly block, which comprised something like 200,000 acres—there were 3 blocks—the most easterly block comprised something like 200,000 acres of our lands. In that block of land, although it was generally tributary to the proposed line of the Canadian Northern Railway, we had been selling very actively for some time, as our records show. In my opinion the very best of our lands in that district had already been selected by settlers and individual purchasers. I don't mean to say that the remaining lands were not good. We were trying to take good lands and were getting good lands as far as we could, but the choicest lands in that district had already been selected.

Q.—Stop there for a moment. Can you tell me, speaking generally, or will that map indicate to you to what extent approximately there had been this choosing by individual purchasers? A.—Well, in here, in the elbow here, these lands were—

Q.—Let me see if I may put it in general fashion. You originally had the odd numbered sections? A.—We had the right to take all the odd numbered sections. Practically we took them all.

Q.—In one or two townships there are only two red sections left. Had the others been sold? A.—Yes, the others had been sold off.

Q.—Where it is solid green, that indicates pretty active sales? A.—Yes, the same up here, at Jackfish Lake. We had sold very extensively. Still I don't mean to say that the lands were not good lands, but we had sold what were supposed to be the cream.

Q.—That is assuming that the settlers knew their business? A.—Yes.

Q.—The settlers you would assume, had, as far as they had gone, picked the choicest. Now that is reason No. 1. What other reason? A.—Then there was about 60,000 acres south of Birch Lake. So far as I knew then or had any idea, that was not on the line of any contemplated road at that time, and I thought that \$3.50 an acre for those lands was a pretty fair price, taking them altogether, good, bad and indifferent.

Q.—That is because of their not being advantageously situated with re-

gard to any prospective railway that you knew of. A.—At that time, yes. And there were four townships through which the line of the Canadian Northern must pass. As far as I knew they were good, fair lands, somewhat rolling in character, but taking the whole thing together and considering that the lands, they were taking evenly selected lands all through, I thought that \$3.50 an acre was a fair price, particularly in comparison with the prices which we were receiving for similar lands in the neighborhood of our main line, the company's main line.

Q.—Your own main line? A.—Yes, which had been in operation for a great many years and where all the markets were established and elevators built and all the facilities.

Q.—Perhaps the lands not agriculturally so valuable? A.—I don't think there is much to choose between them. The purchase of land is something after all that follows fashion.

Q.—Yes, and it follows railways. A.—You can often sell land before the railway is built to much better advantage than after it is actually constructed and running.

Q.—Now, is there any other reason? A.—No, I think not. I think those were sufficient reasons.

Q.—Then you think, having regard to those reasons, you were justified in recommending the price you did? A.—Yes. I was satisfied at the time that I was justified, and I still think so.

Q.—You have not seen any reason to change that? A.—Not at all. I think, comparing that sale with other sales, that it was the highest price that we had ever received up to that time for the same quantity of land. We had never sold that quantity of land before at as high a figure.

Q.—Perhaps you had never made so large a sale before? A.—Oh, yes, we had made larger sales and we had made sales of what turned out to be better land, at a lower figure.

Q.—Perhaps the projected railway would hold up the value of this as compared with the sales you are comparing it with. A.—The other sales I am comparing this with are largely of lands in Southern Assiniboia, south of Regina, tributary to our Portal line, where the lines were actually constructed and operating.

Q.—Then perhaps the settlement of the country had justified larger prices? A.—There was no settlement to speak of in that country in those

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days. The year before this sale was made I travelled from 30 to 40 miles east of Wetaskiwin to Battleford, right through the district where some of these lands were situated and never saw a settler.

Q.—I thought you told me there was an active demand and I rather gathered from that—perhaps I was wrong—that the land was gradually filling up with settlers. A.—It was, but at that time, at the time this sale was made, the homesteads were largely vacant and unoccupied. In the most easterly block the homesteaders were going in rapidly, but in the other lands, so far as I know and believe, at this time I don't suppose there were half a dozen homesteaders in the other blocks at that time.

Q.—Are the homesteaders those who were taking up the even sections? A.—The free grant lands.

Q.—Were they the even sections in your townships? A.—Yes, the Government sections.

Q.—Then did you come to an understanding at this meeting on the 8th December with these gentlemen, upon the lines you have stated? A.—We came to an understanding as to price.

Q. And as to your reserving the 25 per cent. A.—And reserving 25 per cent.

Q.—And as to their taking all in any township if they went into it at all? A.—Yes, as far as I recollect.

Q.—That is your recollection, that all these points were settled? A.—Yes.

Q.—You had not any writing at that time, I believe? A.—No, there was nothing. It was purely verbal.

Q.—Is that customary in your company when you make a large sale like this, not to put it in writing at the time? A.—Well, I think the understanding was that I should go back to Winnipeg and go into the thing and make a definite proposal in writing.

Q.—What do you mean by a definite proposal? A.—Just as to the particular lands.

Q.—Which you would reserve? A.—Which we would reserve and which we would offer them at a price which was agreed upon. What was definitely agreed upon at that time was the general principle of reserve and the price of \$3.50 an acre.

Q.—Then the next matter in order of date is a letter from Mr. Pope to Sir Thomas Shaughnessy of the 17th December. That would be 9 days af-

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ter your interview in Montreal? A.—Yes.

Q.—Had you then returned to Winnipeg? A.—I think I must have. I think I returned immediately.

Q.—Then comes this letter from Sir Thomas (reads this letter.) Just explain about the ten payments. A.—At that time we allowed settlers ten years instead of six years.

Q.—That is, if a man bought land with the intention of settling on it, you would give him ten years to pay in? A.—Yes, ten years to pay in, instead of six years.

Q.—And your arrangement with speculators, I will call them, not in any ill-sense at all, but people buying to sell again, was what? A.—Six years. One-sixth cash.

Q.—Was that a rule you had laid down in the administration of your business? A.—Yes, those were the regulations approved by the executive of the company.

Q.—And those were the regulations upon which you were working? A.—Upon which we dealt with our lands.

Q.—What Mr. Pope is pointing out here is that if you were reserving 25 per cent. in this large tract and making sales to the settlers on ten years' payment, they will be at a disadvantage if they will have to pay up in six years. What did you say to that? A.—Well, I did not think that was a question we should go into at all.

Q.—There was no reason why they should not sell on ten year payments, if they liked? A.—No, I didn't think so.

Q.—So long as they were able to finance the transaction? A.—Yes, it was purely a question of financing, and even on our ten year plan the first year's payment does not differ very much from the payment on the six year instalment plan. It would not make very much difference to them, and if we sold to settlers every settler we got into their territory was going to help them.

Q.—Bring their land more into demand? A.—Yes.

Q.—Sir Thomas sent that letter I have referred to, on to you in his letter of the 19th December in which he says (reads this letter). Then you answered that on the 27th December. Perhaps before I read it you can tell me what you answered. A.—Well, my recollection is that I did not see that there was any reason why we should give them any special terms.

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Q.—Then your letter says: “Replying to your letter of the 19th” (reads this letter). You did not yourself see that it was desirable that you should alter your policy? A.—No.

Q.—Either in respect of your sales to settlers or speculators, again using the word in a proper sense? A.—That was my opinion.

Q.—Then the next letter is from Sir Thomas Shaughnessy to Mr. Pope date 31st December. (Reads the letter.) Then the next letter is from you to Pope, of the 4th February, 1903. Before going to that, will you tell me whether between the 31st December and the 4th February there was anything else took place in the matter that we ought to hear about? A.—No, there was nothing as far as I can recollect. I returned to Winnipeg and I was very busy at the time; we were closing up matters, and I was away for a time. As quickly as I could I selected the 25 per cent. which we should retain, and made a definite proposal to Mr. Pope.

Q.—And that was the proposal of the 4th February? A.—Yes.

Q.—And that was also, you tell us, in pursuance of what you had arranged when you met in Montreal, that is, that on your return you should make him a definite proposal embodying the terms you had agreed upon. A.—Yes. This was in the winter; it was now winter time.

Q.—It was no time either for selecting or selling lands. A.—No, they could not do anything at that season of the year in any case. The selling season was past and the colonizing season was past.

Q.—When does the selling season close, speaking roughly? A.—For them it would be. Of course we sell all the year round, but it is to purchasers who have examined during the season and know of the lands and are only waiting until they sell their wheat or something of that sort, but a colonizing company or a land company could not start in to do business at that season of the year.

Q.—I appreciate that. Then when does the season open in the spring? A.—Very early, sometimes. It depends a good deal on the season. March and April.

Q.—What determines it, the opening of the country to travel? A.—Yes.

Q.—The uncovering of the lands? A.—The possibility of examining the lands.

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Q.—The uncovering of the lands and its getting available for traffic? A.—Yes.

Q.—Then on the 4th February you wrote this letter (“I enclose herewith a map.”) Did you happen to find that amongst your papers and bring it, Mr. Fowler?

MR. FOWLER: No, I don't fancy I ever got it. It may have gone to Mr. Pope. At any rate I haven't it.

WITNESS: I think it would be the same. The map would show what was afterwards covered by the contract.

Q.—Then you have here a map that was subsequently referred to in the contract, covered by the contract, and it would perhaps, be convenient, if you would produce it at this stage? A.—I have the map that was attached to the offer, but I have not a map which shows which lands were selected and which were reserved. That would be a proportion.

Q.—Here you were enclosing a map after taking out the 25 per cent.? A.—Yes.

Q.—And this is the map which excludes the 25 per cent., that would be enclosed in this letter? A.—Yes, well, we would alter our records to show exactly. That is we have a map in the Land Office, a diagram showing every township and we would mark “reserved for Messrs. Pope and Fowler” the particular selections which were shown on that map. We would not necessarily keep a copy of the map.

Q.—Have you with you a map which will substantially correspond with the map you sent them on the 4th February? A.—No, nothing nearer than this. I have nothing to show which of those sections were accepted or reserved.

Q.—Do you happen to know which sections were reserved? A.—No, not without comparing this map.

Q.—Can that be found? I want to see whether we have here before us the material— A.—Have you a copy of the agreement?

Q.—If we have a description of the lands in the schedule to the agreement, it will correspond substantially with this map? A.—Yes.

Q.—And by going over that description with that map we can eliminate your 25 per cent. reserve? A.—Yes, that can be done very easily. I can do that in a very short time.

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Q.—As a matter of fact the lands did not amount to 225,000 acres? A.—No, theoretically there should have been about 217,000 acres. When the surveys were completed there was about 215,000.

Q.—They dwindled below the 217,000? A.—Yes.

Q.—You were stating here generally, “this comprises about 225,000 acres?” A.—They could see exactly what we selected.

Q.—You were demanding an immediate payment of \$20,000 on account of the first payment of \$116,000? A.—Yes.

Q.—Receiving that in answer to your demand of the 4th February, you would let them have until the 1st May to select the lands and pay the balance of the \$115,000? That is right, is it? A.—Yes.

Q.—Then if they did not complete the first payment you would not forfeit the \$20,000, but let them select lands from among their tract to the tune of \$5 an acre? A.—Yes, the same generally as we would have dealt with anybody else. In the same way.

Q.—And you would have applied the \$20,000 as a first instalment upon that? A.—Yes.

Q.—That is you would treat the \$20,000 as the first instalment of one-sixth of the total purchase money of such and such an area at \$5.00 an acre? A.—Yes, that was the intention.

Q.—That would be 24,000 acres, I think? A.—Yes.

Q.—That was your letter to Mr. Pope. Then on the 18th February Mr. Pope replies (reads this letter). What do you say with regard to that? A.—I can only say I never heard any such arrangement mentioned and it would be quite contrary to any transaction that was ever carried out in my department, and my understanding was that the price having been fixed that we should simply carry out the usual financial arrangements in closing.

Q.—You did not understand that there was any exceptional privilege at all in the matter of the terms of payment? A.—None whatever.

Q.—“Owing to the elections that are taking place.” I need not read that. Then Mr. Fowler writes you on the 23rd February (reads this letter). You have the same observation to make with regard to that, have you? A.—Yes.

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Q.—“I notice on the map that Township 39, which you promised should be absolutely reserved when I was in Winnipeg.” Is there anything to say about that? A.—No, that was an oversight and it was made right.

Q.—Then I will not waste time about it. Then you write on the 23rd February to Mr. Pope answering his letter of the 18th. (Reads this letter.) Why do you say “the arrangement I suggested was an exceptionally liberal one”? Or is that just a term of the trade? A.—Well, I don't know—it was a liberal one, that they should pay \$20,000, we might have asked them a very much larger sum.

Q.—You were not under any promise to hold the lands for them at all unless they acceded to your terms in the matter of a payment down? A.—No, I desired to be as reasonable as possible, and I didn't see why we should.

Q.—I think, perhaps, you have answered what was in my mind; you say when you speak of their arrangement being exceptionally liberal you are referring to your asking only such a small cash payment? A.—Yes, \$20,000.

Q.—Because I take it that you might have been referring to the arrangement in chief that is the arrangement by which you were selling at \$3.50? A.—No, the payment of \$20,000.

Q.—That is what you had in mind? A.—Yes.

Q.—That is what you say was liberal? A.—Yes, that is what I have in mind, the payment of \$20,000, instead of asking, perhaps, a much larger payment.

Q.—What do you mean when you say that they have assumed to deal with the tract? A.—Well, I mean that on the verbal understanding which had been arrived at in Montreal, instructions had been given to certain real estate agents in Winnipeg to place the lands on the market.

Q.—By whom? A.—I suppose by Messrs. Pope.

Q.—Not by you? A.—Not by me, no.

Q.—You mean that the proposed purchasers, without having made you any payment and without anything but the verbal arrangement were assuming to instruct real estate agents? A.—To resell the lands, which, of course, I thought was unusual.

Q.—Then I see you wrote to Sir Thomas on the 23rd February also.

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(Reads this letter.) What was that map and who were Oldfield and Gardiner? A.—They were real estate agents in Winnipeg and one of their maps was brought to my attention, showing these lands as open for sale through them.

Q.—Oldfield and Gardiner were the agents you had in mind a moment ago? A.—Yes.

Q.—Is that map among the papers? A.—No, it is not. I have not a copy of the map. I sent it, I think, to Sir Thomas. A.—That was the only map. I did not consider it of any particular importance.

Q.—It was not one of your maps? A.—No, it did not commit us.

Q.—Then did you come to Montreal? I think not from the letter of Sir Thomas to you on the 2nd March? A.—I don't know.

Q.—He wrote you on the 2nd March. (Reads this letter.) I see you had also in the meantime notified Oldfield and Gardiner, the real estate agents? A.—Yes.

Q.—Saying that no arrangement has been made with anyone which would warrant placing these lands on the market in this way. Then you answer Mr. Fowler's letter and make the correction he asked for? A.—Yes.

Q.—Then on the 17th March you write again to Mr. Pope (reads this letter). What had you done that you describe here, as cancelling the reserve? A.—Well, we were holding ourselves free to sell any of the lands in case we had a suitable application for them.

Q.—On the same date you wrote a similar letter to Mr. Fowler. I pass that over. Did you have any reply to those letters? Apparently none? A.—No, I have no recollection of any.

Q.—At all events, if you had, it would be here? A.—Yes, I have no recollection of any reply.

Q.—On the 6th April a telegram from Fowler to Sir Thomas (reads). Then on the 7th April a telegram to Pope (reads). Then an appointment is arranged with Mr. Pope. Then Sir Thomas telegraphs you on the 8th April and you write this letter to him (reads)? A.—I think that was a telegram.

Q.—“Practically the same proposition is still available.” You remember that that took place? A.—Yes.

Q.—“We cannot consistently waive required deposit but we might give him until the 15th May?” That was instead of the 5th May? A.—Yes.

Q.—Then Sir Thomas on the fol-

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lowing day wrote to Pope. He states the contents of your telegram. Then on the 11th April you write Sir Thomas (reads this letter). “About a dozen sections will be excluded under the new arrangement.” Was that because of your having sold them meantime? A.—Either we had sold them or obtained information respecting them so that I thought it would be in the interests of the company to reserve them.

Q.—Is this statement a true statement of fact that you had received a definite offer of \$4? A.—I believed that we could sell them at that time for \$4 an acre. I don't recollect now from whom the offer was received, but I think it was through the same firm, Oldfield and Gardiner. I think they believed that they could, or stated that they were prepared to make a definite offer for those lands of \$4 an acre at that time.

Q.—That was in April? A.—Of course whether they would have—I had received no money or deposit.

Q.—Apparently you were not assuming at this time to deal with the matter yourself, but were referring it to Sir Thomas Shaughnessey? A.—Not in a large way. That is, I would not sell the whole lands. I was holding this open.

Q.—You had already notified Mr. Pope and Mr. Fowler that their reserve was cancelled and that you were free to deal with it without reference to them? A.—Yes, because up to that time we were even holding the individual sections, the lands that were set apart from them; while I would have no hesitation at all in selling individual sections to a settler if I considered it advantageous to the company to do so, I would have sold a section or a number of sections, but I refrained from offering the whole block because I thought that there evidently had been a misunderstanding, and it was just as well that it should be straightened out.

Q.—What I have in mind was that you seemed to be referring to Sir Thomas Shaughnessey rather than dealing yourself with the question of policy involved. A.—Well, I would not sell that quantity of land under any circumstances without referring it. Even if there had been no question at all.

Q.—If it had been a fresh deal? A.—Yes, and naturally I would not offer the whole thing for sale—

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Q.—Over the heads of these gentlemen? A.—Yes, without referring it to Montreal.

Q.—That is your explanation with regard to that. Then on the 12th April Sir Thomas telegraphs you (reads). Then on April 13th you wire something to Sir Thomas which is not here, but I don't know that that is of any importance because it is repeated in Sir Thomas' telegram to Pope of the 13th April. (Reads.) "Others are negotiating for considerable portions of the area." A.—That is the \$4 offer.

Q.—Then Sir Thomas says to Pope, "If you have not written presume I had better tell him, that is, tell Griffin, that negotiations are off, as matters cannot be kept open any longer." Then Mr. Pope says that his associates are scattered for their holidays and that he has notified them by wire and will complete the deal and wants three or four days to meet in. Then Sir Thomas wires to you (reads). Then there is a telegram arranging the payment and Sir Thomas telegraphs you asking you if you will be in Winnipeg to meet Mr. Fowler on a certain date; you say you will be, and then they came to Winnipeg? A.—Yes.

Q.—Both of them? A.—No, I think Mr. Fowler only. I have no recollection of Mr Pope

Q.—Do you remember the negotiations which took place between you and Mr. Fowler there? A.—That was on the 24th April or about that time.

Q.—On the 22nd April you wired to Sir Thomas. (Reads this telegram.) A.—My recollection is that the \$20,000 was paid in at Winnipeg and then the formal contract was entered into.

Q.—We will pass over the little difficulty there was about some mistake in the bank about the wiring of the money. Then Mr. Fowler seems to have had a power of attorney from Pope to deal with the matter, and you came to an agreement. This is a document that in its entirety we have never seen before, although we, of course, have seen all, except the schedule. It is practically reproduced in the agreement which was made, passing it on to the Union Trust Company, in trust. It is dated the 24th April, 1903, between the Canadian Pacific and Pope and Fowler, called the purchasers. (Exhibit 668.) They paid

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you the \$20,000? A.—Yes, the \$20,000 was paid.

Q.—And this option was then executed? A.—Yes.

Q.—It recites the payment of the \$20,000, and it gives until the 15th May an exclusive option to purchase lands amounting to 200,000 to be selected prior to the 1st June, from the lands described in the schedule hereto annexed, which is declared to form part of this agreement, for the sum of \$700,000, being at the rate of \$3.50 per acre, to be paid at the Land Department, one-sixth cash and the balance with interest at 6 per cent. in annual instalments. You remember its terms in a general way? A.—Yes.

Q.—There is a provision for applying any monies that would otherwise be forfeited upon a purchase at \$5 per acre. Now, with regard to the schedule of lands I see it is footed up in pencil at a total of 217,455.46 acres. A.—Yes.

Q.—And that is what was left out of the original 300,000 acres after your deduction of what you conceived to be 25 per cent. A.—That is what was left after our reservation.

Q.—Then this 217,000 odd scheduled to this agreement is the tract over which they had a right to range to take out 200,000? A.—That is the tract, yes.

Q.—And did the same limitation apply at this date as applied hitherto, that is that if they went into any one township they must take all of it. A.—I think it is mentioned in the contract.

Q.—I have not gone through it in detail. A.—Yes, it is mentioned in the contract.

Q.—I don't think it is, but I do not by any means say it is not. You might see if you can find it. A.—"The purchasers must take all the lands mentioned in the schedule in any township in which they shall select any lands."

Q.—You knew where to look for it. That is at the end of the first clause on page 2. Then I see this is not only executed by you as land commissioner, but underneath there is an acceptance by Pope and Fowler, Mr. Pope executing by Mr. Fowler, his attorney. So that they accepted the option. A.—That showed that it was in accordance with the various con-

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versations and negotiations which led up to the purchase.

Q.—Now we can, of course, tell in a moment, and you said a while ago you could tell me quickly, on this map that we were looking at a while ago, where the green blocks are, this commences with 39 in the 8th. A.—This is the township.

Q.—39, 40 and 41 in the 8th? A.—Yes.

Q.—40 and 41 in the 9th? A.—Yes.

Q.—40 in the 10th? A.—Yes.

Q.—38, 39 and 40 in the 11th? A.—Yes.

Q.—41 in the 12th? A.—There is a reserve in 40, possibly that is thrown out. Forty-one they evidently got nothing in that; 42, 43 and 44 in the 12th.

Q.—41, 42 and 43 in the 13th. A.—And 44 in the 13th.

Q.—Yes. 41, 42, 43 and 44 in the 14th? A.—Yes.

Q.—42, 43, 44 and 45 in the 15th? A.—Yes.

Q.—Then 44, 45 and 46 in the 16th? A.—Yes.

Q.—45, 46 and 47 in the 17th. Is that right? A.—Yes, that is right.

Q.—In the 18th, 46, 47 and 48? A.—Yes.

Q.—In the 19th, 46, 47 and 48? A.—Yes.

Q.—In the 3rd concession, west of the 4th meridian. A.—That would be 50 and 51.

Q.—In the 4th concession? A.—50 and 51, Range. In Range 10, west of the 4th meridian.

Q.—In Range 10? A.—47, 48 and 49.

Q.—In the 11th? A.—The same in the 10th, 11th and 12th.

Q.—That is 47, 48 and 49 in each of them? A.—Yes.

Q.—That seems to cover the whole of this area which you told me was 300,000 acres? A.—Yes, but it does not cover all the sections in each of those townships. We had reserved portions of the lands in each township. It covers the whole area but we reserved a certain proportion in each township.

Q.—That is you had reserved the difference between the original area and the area of 217,000 which there is in this schedule? A.—Yes.

Q.—I will substitute a copy which I have. When was it that you negotiated with them with respect to the other 17,000 acres? A.—I think it was immediately.

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Q.—Was it before this agreement was signed or after? A.—I couldn't say.

Q.—Was there a separate negotiation and a separate agreement with regard to it? A.—Well, it was an application on the part of Messrs. Pope and Fowler or Mr. Fowler, to purchase the remainder of the lands at the same figure.

Q.—And that was made while Mr. Fowler was in Winnipeg? A.—While Mr. Fowler was in Winnipeg as I recollect.

Q.—How did that come about and what was said in regard to it? A.—He asked me, as they had agreed to purchase or had an option to purchase the 200,000 acres, would I be willing to sell them the remainder of the 217,000 at the same figure and I told them that I would since they had the right to select 200,000 acres out of the 217,000 acres I saw no reason why we should not sell them the remainder.

Q.—If it was good to sell 200,000 on the average run it was better to sell 217,000 on the average run? A.—It was better—well, they had a certain right of selection, they could have thrown out the inferior townships and what it meant was that if they had the right to select the best townships at \$3.50 an acre, there was no reason why they should not take the remainder of the inferior townships at the same figure. I agreed to that. I wrote him a letter.

Q.—You looked upon that as advantageous from the standpoint of the company? A.—Certainly.

Q.—That is the letter of the 25th April, this agreement being dated the 24th? A.—Yes.

Q.—On the 25th April you wrote Mr. Fowler and apparently you sent that to him in Ottawa? A.—Apparently. I suppose it must have been arranged on the point of his departure for Ottawa.

Q.—That quite accords with the terms of the letter. (Reads this letter). That was putting the terms both as to the date of payment and otherwise upon the same footing as the 200,000 acres? A.—Yes.

Q.—Then on the 30th April Mr. Fowler answered that, accepting. (Reads this letter). Before we go any further, will you explain to the Board how in your records you distinguished, if you did distinguish at all, between the 200,000 to be select-

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ed out of the 217,000 and the seventeen which is covered by these two letters? A.—We made no distinction whatever.

Q.—Was there ever any separate formal agreement with regard to the 17,000? A.—There never was a selection made so far as we were advised.

Q.—That is they did not go and select under the terms of the agreement of the 24th, a definite 200,000 and advise you of it? A.—No, they did not. They had agreed to take or intended to take all of the lands mentioned in the schedule. They executed a surrender of the option agreement and it was understood that we would sell them the whole number.

Q.—Have you that paper, the surrender? A.—I think it is attached to the other copy.

Q.—Mr. Griffin has been good enough to give me this duplicate for the purpose of the Commission. Of course it will be returned to him afterwards, but he is willing to part with it for the purposes of the Commission (Exhibit 668). Then the release you were speaking of is annexed and forms part of Exhibit 668 and is dated the 23rd July, 1903. It is signed by Mr. Pope, by Mr. Fowler, his attorney, and by Mr. Fowler. And in terms it releases, surrenders, assigns and sets over to the Canadian Pacific the annexed agreement of the 24th April, together with the schedules therein referred to and all our right, title, estate, interest and so on, in and to the lands so described. That is what you mean by the surrender? A.—Yes.

Q.—What was the object of that surrender? A.—I cannot recollect now whether it was discussed with our solicitors or not, but I suppose they would think that if the transaction had taken a new form, inasmuch as there was to be no selection, they were taking the whole 217,000, that it would be just as well to surrender the option and we would deal with the lands under their direction and avoid any question of selection at all. I was not advised of any selection and never considered the question, and after they agreed to take the whole I did not think it was necessary.

Q.—Then on the 13th May, following it out as it occurred, Mr. Pope and Mr. Fowler sent you a letter saying we have sent the \$40,000 due on the 15th, that would be on the 200-

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000? A.—No, that was the balance of the first payment.

Q.—Not the balance of the first payment, but the second instalment of the first payment under the option? A.—Yes, the second payment under the option.

Q.—And this is at a date before the surrender took place? A.—Yes.

Q.—“We beg leave formally to notify you that we propose to take up our option with you under the terms thereof.” Then you acknowledge receipt of that on the 19th May. There was some extension of time for the payments and we need not take up time with these details? A.—It was a question of interest.

Q.—Then on the 26th June Mr. Fowler writes you asking for a couple of maps of the district where the land lay. The correspondence will be filed as Exhibit 667 and the agreement as 668. I will return this copy of the agreement to you, Mr. Griffin. Now, after the surrender, or perhaps we should say, contemporaneously with the surrender, you made certain allotments or allocations on the order of Pope and Fowler of certain of these lands and I think that we will get that upon the notes. If you will turn to the agreements you have there what do you call them? A.—Here is an agreement number 24,787.

Q.—There were two of the 29th July, let us take those first? A.—Those were 24,787, Canadian Pacific lands, and 481, Souris branch.

Q.—Those are called contracts? A.—Yes, land contracts.

Q.—These are partly main line and partly branch? A.—Yes.

Q.—The contract with regard to lands on the main line is based on a request, a direction of the same date by Pope and Fowler to the Canadian Pacific. I leave out the details. We request and direct the Canadian Pacific to sell to the Union Trust Company of Toronto or its nominee or nominees the lands described in the schedule hereto annexed, for the sum of \$700,000, payable one-tenth in cash and the balance in five equal annual consecutive instalments, and so on, subject to the terms contained in the Company's agreements for sale. What does that cover, you can tell me probably? A.—193,000 acres. There are two contracts. At that time; it was reduced afterwards.

Q.—It is 193,836 acres. That is a request and direction which covers

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certain lands described in the schedule? A.—Certain of the lands.

Q.—And these are part of the 217,000? A.—Yes, part of the 217,000.

Q.—Because of what you have told me with regard to your method of carrying it out, you do not distinguish them as being part of the original selection of 200,000, because you have no means of knowing that? A.—No, I made no distinction.

Q.—This is a direction to convey certain scheduled lands amounting to 193,836 acres to the Union Trust Company. Then you have a contract besides? A.—These are the contracts. Those two refer to it.

Q.—That is followed by a contract and you will let us have copies of these to put in, especially copies of the schedules, that is what I want particularly. The contract of the 29th July between the Canadian Pacific and the Great West Land Company, covering an acreage of 149,598.24? A.—And the other one makes up the balance.

Q.—These are the main line lands? A.—Yes.

Q.—And the other one is the same date between the Canadian Pacific and the Great West Land Company and covers lands scheduled at 44,339.25 acres. Those are the Souris branch lands? A.—Yes.

Q.—And these two conveyances together make up all of the whole 217,000 acres that you conveyed or you are under contract with to the Great West Land Company? A.—Yes, excepting that we have another contract with them.

Q.—Yes, that is right. Then this direction of these two contracts will have one number, they will be Exhibit 669. If you prefer having the copies made yourself, do so, but we can make them here and return them to Mr. Creelman or you? A.—I suppose they had better be made here.

MR. CREELMAN: I am quite willing to leave them with you and let you make the copies. I suppose you will not keep them more than a day or two.

MR. SHEPLEY: Oh no; I will set them in hand immediately. Then we have on the 23rd July, 1903, a direction to convey to the New Ontario Farm and Town Site Syndicate, Limited, certain lands scheduled at 8,640 acres, and that is preceded by a contract. The direction is later than the contract but that is a mere matter of detail and won't do anybody any harm. The 18th July is the date

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of the contract between the Canadian Pacific and the Great West Land Company for the same 8,640 acres? A.—Yes.

Q.—You perhaps do not know, but it is part of the material here that the Town Site Syndicate was merged in the Great West Land Company? A.—Our solicitors must have advised us or we would not have issued the contract.

Q.—That is 8,640 acres. Those will be Exhibit 670 and we will have them copied also. Then what else is there, Mr. Griffin? A.—I don't know that I have anything else.

Q.—You have the Bellhouse contract? A.—These are simply entries in our ledger. There are also certain documents relating to the transfer of these properties.

Q.—This appears to be an agreement between Mr. Pope and Mr. Fowler of the one part and a gentleman named Bellhouse of the other part, dated the 1st May, 1903, covering certain sections that are mentioned, said to contain altogether 8,000 acres, more or less, and that is followed by a conveyance to the same gentleman and then certain other intermediate conveyances, all of which operate as directions to you as to what the ultimate conveyance is to be? A.—Yes.

Q.—Those all relate to the same 8,000 acres or thereabouts? A.—Yes.

Q.—I won't keep those. That 8,000 acres turned out to be 7,588.30? A.—Yes, on completion of the survey.

Q.—Then let me put them together; you have the 193,000 acres; you have the 8,640 which panned out at 8,643; you have the 7,588, that is the 8,000 and that leaves on your final measurement 6,533.39 out of a readjusted total of 214,437.88. Those figures you have verified, I think? A.—Those were verified according to the schedule.

Q.—Now that total of 214,000 odd corresponds with the original 217,000? A.—Yes, it was reduced to that on the correction of the surveys, or completion of the surveys.

Q.—Now you have told us about all this allotment of 214,000 except the 6,533.39. Tell me what position that stands in? A.—There was an understanding that we should sell the whole 217,000 acres, or whatever it might turn out to be, at \$3.50 an acre. There were the contracts with the Great West Land Company; there

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were the contracts with Messrs. Pope and Fowler took out in their own name and there were the remaining 6,500 odd acres for which no contract had yet been issued.

Q.—That is what stands at present in form upon a surrendered option? A.—It stands upon a surrendered option. When Messrs. Pope and Fowler paid in the \$60,000 under the original option agreement, and afterwards when these various contracts were entered into, as sufficient moneys were apportioned from time to time from what was standing at their credit to make up any deficiency in the payments received from other sources, from the Union Trust Company or otherwise as the case might be, I don't remember exactly where those moneys came from but after all those contracts were issued we had still a balance of—

Q.—\$3,536.45? A.—Standing to their credit.

Q.—To the credit of Pope and Fowler? A.—Yes.

Q.—What did you do with that as a matter of book-keeping? A.—As a matter of book-keeping that remains in suspense to their credit.

Q.—Have you put that against the 6,533 acres? A.—Not in any definite way.

Q.—But that is in suspense, it is money that you do not need in respect of the contracts you have issued? A.—No, and for which they are entitled to credit.

Q.—And there are no contracts outstanding for the 6,533 acres? A.—There are no contracts. The amount that was standing in suspense was a few hundred dollars short of what was required as the first payment on the 6,533 acres in question and contracts have never been issued for that.

Q.—Then is this a list of the lands which are not under contract? A.—Yes, that is a list of the remaining lands.

Q.—That I put in, a list of the 6,533 acres, a schedule of them showing what they are. (Exhibit 671). Then, if we take that schedule and the four other schedules and the four contracts that are issued and readjust according to the figures you have given us, we will get the whole original area represented by the 217,000 acres? A.—Yes, excepting I think in one or two cases. If I recollect it was found that there were certain claims against one or two parcels of which we had had no notice. Claims of the Domin-

ion Government. Although we had

accepted the lands they had disposed of them in some way and we had to make an exchange, which was made.

Q.—That would be only in odd cases, it would not affect the substance of the thing? A.—No, it would not affect the substance. It would not be more than a section, I think.

Q.—Then let me have upon the notes, if you please, these readjustments. The contract which called for 8,640 acres panned out at 8,643. The contract for the Souris branch lands panned out at 44,245.99 acres. The contract for the main lands panned out at 147,427.20 acres. The Bellhouse contract, I will call it that just for the sake of convenience for 8,000 acres panned out at 7,588.30 acres. Lands still under contract 6,533.39, or a total of 214,437.88 acres. Now, there is another matter that I want to ask you about. You have brought here your record of land sales? A.—Yes.

Q.—I want you to show the Commissioners—about the period from October to April when this matter was under negotiation between yourself and Pope and Fowler—what you were selling the lands at. I don't care so much about individual sales, but I do care about sales in blocks? A.—I think that probably the Souris branch lands, there were more sales in blocks in the same territory there than on the main line.

Q.—I want the Board to see that what you are telling us is well founded and that this was a good sale? A.—Well, this is commencing October, 1902, we start with November, Township 36, Range 11, west of the 3rd Meridian, which is in the same territory largely, we sell a Township at \$4 an acre. That is not all of the township, it is certain sections in the township but a number of them. Then on the 26th November we sell Robert W. Gibson in Tp. 47, R. 18, W. of the 3rd meridian, that is in the neighborhood of Jackfish Lake we sell seven sections at \$4 an acre. In December we sell William C. Lahaine a considerable number of sections in Tp. 36, R. 1, or 35 and 36 at \$4 an acre. Those are picked sections. In January, 1903, we sell Haley & Sutton 6 picked sections in Tp. 42, R. 21, W. 3 M. at \$4 an acre. Then these are individual sales. February 19, we sell B. C. Parker 9 sections in Tp.

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41, R. 21, at \$4 an acre. And in Tp. 35, R. 11, W. 3 M., which is perhaps a little nearer the tract we were dealing with, we sell 10 sections at \$4 an acre.

Q.—So long as you do not find any figures but \$4 you need not give us any more instances. See what other figures you have in blocks? A.—Here is a sale of a larger portion of several Townships. All Souris branch lands, to James Johnston in April, 1903, about 50 sections at \$4 an acre. Some of these are picked, but largely they are in Township lots. In May, 1903, in 38/21 we sell a whole township at \$4 an acre. In June the Pope and Fowler sale at \$3.50.

Q.—It was in the Souris branch that you had the most large sales? A.—At that time, although the bulk of the Pope and Fowler sale was in the other. I don't think we sold much at \$3.50 after October, because we had increased our price for individual sections.

Q.—What were you selling at prior to October then? A.—At \$3.50 and \$4.

Q.—I think you showed me last week in Toronto some large sales, one or two about that time. I want the Commissioners to understand what your department was doing generally in large blocks about that time.

A.—In October there are sales in that district, individual sales at \$3.50 an acre. This was just on the turn of prices in October. In the commencement of October you will see individual sales at \$3.50 an acre. There was a picked lot of sections in October to George W. Munson right in the same district. Those were not in townships at all.

Q.—What did you get for them? A.—\$4 an acre. That was in the eastern tract. Those were picked in quarter sections, after careful examination.

Q.—You had some typewritten on sheets that were inserted. My recollection is that it was about April or May. A.—The most were \$4 after that date. These were all in the same district. Individual sales, picked sales. There is one at \$3.50 an acre. There were occasional sales of \$3.50 where we saw that the lands were not up to the standard. Here was one at \$4 in November. Here is one at \$3.50, '49/26 on the 24th November, 1902. That was a whole township in the same district. We made another sale there at \$3.50. However, we had generally increased the price for

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individual sections. Here in November is another sale of picked sections at \$4 an acre to Robert W. Gibson.

MR. KENT: Some at \$6, I think. A.—Those are near our main line. 13/13 W. of the 2nd M. is just south of our main line. There is a sale at \$4 an acre of picked sections between Moose Mountain and our main line. That is not in the same district, but those are more valuable lands, so that it was not an exceptional sale. Where it is in the way of taking all the lands in a certain section I think a purchaser is always entitled to some advantage.

MR. SHEPLEY: Mr. Creelman has quite fallen into the routine of the Commission, and has handed me certain questions which he wishes to address through me. He suggests that I should ask you two or three questions, first with regard to your opinion. Was the sale that you made to Pope and Fowler on this occasion a better or a worse sale than a sale would have been of the same quantity of picked or selected lands at \$5 an acre? A.—I have no hesitation at all in saying that the sale that was made was a more advantageous sale than a sale of the same quantity of land in what would necessarily be a somewhat wider territory, though the same character of district from between Saskatoon and Edmonton at \$5 an acre. That is, if Messrs. Pope and Fowler had gone and picked 200,000 acres of land, picked sections through all that territory at \$5 an acre, they would have obtained a better bargain than they did.

Q.—And it would have been a correspondingly worse bargain, you would say, for the Canadian Pacific? A.—That is my opinion.

Q.—Then, my learned friend will not mind my altering the form of these a little?

MR. CREELMAN: Oh, not at all.

MR. SHEPLEY: Did Messrs. Pope and Fowler receive any special consideration at your hands for any reason whatever in connection with this sale, or did they get just the terms that any other persons of substance with the money to pay could have got? A.—They received exactly what I would have recommended in the case of any other purchasers.

Q.—Did you receive at all from anybody in authority in connection with the Canadian Pacific any instructions or any suggestion that you should reduce or lower the price to

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these gentlemen? A.—I never received even a suggestion from anybody that I should give Messrs. Pope and Fowler any special concessions that would not be accorded to others.

Q.—Then I think that is all I have to ask Mr. Griffin, and after consultation with the counsel concerned in the case and with Mr. Fowler, whom I desire to examine next, I have to make this suggestion to the court, that we should, as far as the public sitting is concerned, adjourn now until a quarter after four to-morrow, and then take up and finish Mr. Fowler's examination, if necessary, holding an evening session. Mr. Fowler has been good enough to say that he will make that, not convenient to him, because that is too much to expect, but he will be good natured about it and help us out.

JUDGE MACTAVISH: Then we will adjourn until 4.15 p.m. to-morrow.

(At 5.15 p.m. on Tuesday, 6th November, adjourned to 4.15 p.m. on Wednesday, 7th November, 1906.)

NINETY-FIFTH DAY.

AFTERNOON SESSION.

Ottawa, Wednesday, November 7th, 1906.

INDEPENDENT ORDER OF FORESTERS (Continued).

GEORGE W. FOWLER, recalled.
Examined by MR. SHEPLEY:

Q.—You are already under oath, Mr. Fowler. This is the memorandum that you made of the matters in respect of which I desired to have further documents, if there were any. What is the first item there? A.—The first is "option."

Q.—What was that? A.—That was, I think you told me, the first option that we received. The first option was a verbal option so I could not bring it.

Q.—In respect of what? A.—The lands that were afterwards sold to the Great West Land Company. The lands purchased from the C.P.R.

Q.—That, as you say, was verbal, and so you did not bring that. Then "map or maps." I see that is the next note you have. A.—Well, I haven't any maps.

Q.—Where are the maps? A.—I don't know.

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Q.—You say you don't know? A.—No.

Q.—What did you do with them? A.—I couldn't tell you that.

Q.—You don't know what you did with them? A.—I don't know what became of them.

Q.—What would you be likely to do with them? A.—I suppose they would be kicking around the office and probably destroyed. I wasn't able to find any at any rate. I thought I had a map, I told you, that Mr. Griffin spoke about here yesterday.

Q.—But that you were not able to find? A.—I was not able to find it.

Q.—Then what is the next subject that you have indicated? A.—There is "Correspondence with Mr. Griffin." Well, I didn't find any correspondence. These were not kept with my usual business correspondence, these letters, and I couldn't find any. However, you have that.

Q.—You say they were not kept? A.—They were not kept with my usual office correspondence, because they were all on file.

Q.—I have got that correspondence, as you say. Then "Correspondence with various members of the syndicate." A.—Well, I hadn't any of that. There was very little correspondence at any time. Whatever talk I had was verbal principally. I think you have a letter of mine or two that was sent to Mr. Lefurgey.

Q.—Have you made a search? A.—Yes, I have made a search for all these things.

Q.—And you have not been able to find any letters? A.—No.

Q.—Then, what else have you there? A.—"Correspondence with Mr. Curry." I never remember having any correspondence with Mr. Curry. Mr. Curry sent me a draft of an agreement which I returned to him, and which, I think, you have.

Q.—And you found no correspondence at all events? A.—No. All the correspondence, I suppose, would be "I herewith enclose you a draft."

Q.—There is an item there, "Correspondence with the Farm and Town Site Syndicate?" A.—I haven't any such item here.

Q.—Perhaps you have included that with Mr. Curry. A.—I suppose likely I did.

Q.—Did you look for that? A.—I never had any correspondence with the Farm and Town Site Syndicate.

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The only correspondence I ever had in connection with the matter would be the note from Mr. Curry enclosing the draft.

Q.—Then what is your next item there? A.—“Correspondence with real estate men.” This is “R. E. men,” I presume that is real estate men. I haven’t any correspondence. I couldn’t find any.

Q.—You did not find any with Oldfield and Gardiner? A.—No, although there may have been some. That is, they may have written me about publishing the maps or something of that kind.

Q.—Do you recollect that they did get out a map? A.—Yes, I recollect—

Q.—And started to offer the lands for sale? A.—They had these lands along with other lands of their own; I don’t think they had a map of these lands separately, but they had a map of lands for sale by Oldfield & Gardiner, do you see.

Q.—And how did they come to have these lands put in their hands, did you do it? A.—I don’t know whether I did or Mr. Pope and I. We may have said to them, we would like you to make a sale of the lands. I dare-say we did that.

Q.—You must have furnished them with a description or a map? A.—Well, they knew the lands.

Q.—I should not say you must have, because they probably would have access to that in the office of the C.P.R. A.—Yes, they would know these lands as well as we would, and perhaps much better.

Q.—Although Mr. Griffin seemed very much surprised according to the correspondence when he found they were offering the lands for sale before you carried out the arrangement? A.—Yes, I think he wrote something about that to Mr. Pope. I don’t know whether he wrote to me or not.

Q.—That would rather be against the theory that they got any information from the C. P. R.? A.—Yes, it would be. They must have got it from one of us, but it could not be definite information because at that time we had not definite information with respect to this. We would have a general idea. I have an impression—you remember this is four years ago and one cannot recall everything that took place—but I have an impression that in the office at one time there had been marked

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on their general map, that is the general map of the C.P.R., about the locations, that had been indicated I think in blue pencil or something of that kind.

Q.—Perhaps we can shorten that a little. You heard Mr. Griffin’s evidence yesterday with regard to the various stages through which the matter went in the matter of setting apart lands? A.—Yes.

Q.—Do you agree substantially with what he says? A.—Substantially that is correct.

Q.—That is, in the first place there was a larger area of about 300,000 acres? A.—Yes.

Q.—Then came the fixing of the price in Montreal? A.—Yes.

Q.—Then came the reservation as a term then imposed, of approximately 25 per cent.? A.—Yes.

Q.—Of an even or average quality of lands? A.—Exactly.

Q.—Then that left you with the right to select out of the remaining 217,000 or thereabouts? A.—Yes, and then afterwards we took the 17,000. Mr. Pope and I took that ourselves.

Q.—You agree substantially with the account Mr. Griffin gave yesterday? A.—Yes, substantially that account is correct as I remember.

Q.—What is the next item you have? A.—“C.P.R. officials” it says. No, the next item was “Foster, Wilson and McGillivray.” That is the syndicate. I never had any communication with them, any letters so far as I remember, at any rate I didn’t find any and I don’t remember of ever having any, because that was not carried on with me in the first instance you know, I didn’t go to these people. I don’t know of anybody on our behalf doing so, but I think the communication came from the other side so far as I understand.

Q.—How do you mean, from the other side? A.—That is from the other parties, that would be from that syndicate.

Q.—Foster and McGillivray? A.—Yes, that is my impression of it. At any rate I never went to them.

Q.—And you had not any correspondence with any of them? A.—No, I hadn’t any correspondence with them.

Q.—At any time with respect to this transaction? A.—No.

Q.—Or would you say that if you had, you are not able to find it now? A.—Yes, I would say that and I would

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say further, that I don't think I ever had.

Q.—You don't think you ever wrote letters to any of these gentlemen? A.—I don't recall them.

Q.—While the negotiations were going on for the formation of the company? A.—Exactly. I wouldn't say positively I did not, but I cannot recall at the present time.

Q.—Did you make a careful search? A.—Yes, I looked through all the papers I have in connection with this.

Q.—Did you look through your letter books? A.—Well, I never kept any copies of these letters in my letter book at all. If I would keep a copy it would be a written copy, written at the same time, because these never went through my office business at all. I have partners in my business and they have nothing to do with this.

Q.—Do you keep letter books of your private business? A.—No.

Q.—And if you kept a copy it would be a written out copy? A.—Yes, unless I looked upon it as a very important letter I would not keep a copy.

Q.—Your recollection is against there having been any correspondence? A.—That is my recollection, but I would not be positive about it.

Q.—What do you find next there? A.—“Reply to Application to C.P.R.” You have that.

Q.—What is that? A.—I have it here abbreviated. I take it to be Reply to application to C.P.R.

Q.—A moment ago, before you took up the Foster syndicate, you said the C.P.R. officials? A.—Yes, that is right. I haven't any communication from them at all.

Q.—I suppose all the letters you wrote, you wrote to Mr. Griffin or Sir Thomas Shaughnessey? A.—I don't remember of ever writing a letter to Sir Thomas Shaughnessey at all. Mr. Pope carried on those negotiations.

Q.—Would you say all the letters you ever did write to anybody in connection with the C.P.R. are among the batch produced yesterday by Mr. Griffin? A.—I would think so.

Q.—Did you hear letters from yourself read yesterday? A.—I don't remember, I think you did read one letter from me, at any rate I haven't any copies of them.

Q.—Then have you a copy of the contract that was made with the C.P.R.? A.—No, I haven't any copy.

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Q.—You have no copy of that contract at all? A.—No, I have no copy at all.

Q.—What other memorandum have you there, Mr. Fowler? A.—“Contract with C.P.R. after selection and anything showing lands selected.” No, I haven't anything there.

Q.—What is your next memorandum? A.—“Documents signed by members of the syndicate or any of them.” I have no document.

Q.—You have none at all? A.—No.

Q.—So far as you are concerned, your muniments, whatever they may be, are absolutely blank so far as this matter is concerned, with the exception of what you have brought here. A.—I have brought all I have.

Q.—You have brought here all you have been able to find? A.—Yes.

Q.—These are documents which you produce which are already on the records? A.—I fancy they are.

Q.—I have separated them, or they have been separated, into two batches. There is an agreement between yourself and the Hon. G. E. Foster of the 8th February, 1904. That is in respect of the timber limits? A.—Yes.

Q.—That is not in respect of these lands? A.—Here is another one. That is the assignment from us to Mr. Foster.

Q.—We will just keep those together. Then this is dated 18th June, 1904. That is in respect of the Kamloops property as well? A.—Oh, yes, that is our guarantee. That is just a copy; it is not executed. I think that was executed, but that is a copy I have there. It is an unsigned copy.

Q.—Then I think that is your handwriting endorsing it? A.—Yes, that is in connection with the Okanagan.

Q.—The agreement with the Okanagan Company and yourself? A.—Yes.

Q.—I will keep these by themselves. Then these are not yet upon the record. What is this document, if you please? A.—That is an estimate.

Q.—Of what and by whom? A.—Well, I think that is an estimate of the—yes, that is an estimate of the Kamloops lumber property, of the values.

Q.—Who made the estimate? A.—Well, I think that I made that estimate from reports, from statements.

Q.—What reports? A.—It would be the statement of Mr. Irwin and Mr. McCormick and the cruisers that were on the property as to the amount of timber.

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Q.—You think that document was prepared by yourself? A.—I do.

Q.—And you think you prepared it from reports made by Irwin and McCormick and reports made by the cruisers who were upon the limits? A.—Yes.

Q.—Do you remember preparing the estimate? A.—Yes, I think I do. I am quite confident I did it.

Q.—Can you say why you prepared it, what was the object of the preparation of that? A.—Well, to show what the property contained, you know.

Q.—To show to whom? A.—To anybody to whom it might be sold.

Q.—Does the document bear any date? A.—It does not appear to.

Q.—And it does not bear any name? A.—No, there are no names on it.

Q.—Where did you find that? A.—I found that among my private papers at home.

Q.—Among these papers? Were these all together? A.—Yes, where these were.

Q.—With other papers, or did you bring all that were there? A.—Well, I had other papers, of course, and all the papers that were in connection with this thing.

Q.—What you mean to say is that this was taken out of a larger bulk of private papers, some of which, perhaps most of which, did not relate to this transaction? A.—Exactly.

Q.—And you sorted these out from papers you found? A.—Yes, I just brought everything there was there that had connection with the matter.

Q.—I will make that estimate an exhibit (No. 672). Then does this relate to the same matter, and what is it? A.—I think this covers practically the same, or at least covers some of those mentioned or referred to there and I fancy it covers them all.

Q.—What does it purport to be? A.—It purports to be a description of certain timber berths. It seems to be a detailed description of the same timber berths that are referred to there. (Exhibit 673.)

Q.—Do you know anything about it? A.—No.

Q.—How it came into existence, whose production it is or anything of that sort? A.—No, I don't know. I should fancy this was taken from the license, transcribed from the license.

Q.—What I am trying to get at—perhaps you cannot give it to me—is, what was the history of the production of that? A.—I don't remember.

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Q.—You do not remember by whom it was prepared or for what purpose? A.—No.

Q.—But it appears to be a transcription of the various timber berths comprised in the transaction that took place with regard to the Kamloops Lumber Company? A.—Yes, that is what it appears to be, and I suppose it is. It does not say anything there about amounts. Like that one that I produced there, that unsigned, I don't know that I ever presented that to anybody, you know. I don't recall that I ever did, I don't know that I ever did or not. I fancy that I did not, you know. But I found that among my papers and it related to this and I brought it, that was all, because I wanted to bring everything there was.

Q.—I think you said that you had a recollection of having made that estimate yourself upon the reports of Mr. Irwin and Mr. McCormick and the cruisers? A.—Exactly.

Q.—And you cannot tell us anything further about that except that you found it among your papers? A.—Exactly. I don't know that I ever made any use of it or not. I may have and I may not. I don't know.

Q.—What is this document? It seems to be in your handwriting. A.—That is a copy of an offer I made—I think it is a copy of an offer that I made for the Kamloops property.

Q.—To whom? A.—To the Kamloops Lumber Company.

Q.—On what occasion was that? A.—Well, I think that was this spring some time, this last spring.

Q.—That is a recent matter. A.—Yes, an offer to purchase. (Filed as Exhibit No. 674.)

Q.—What was the occasion of that? A.—Well, they were endeavouring to sell the property. There had been an agreement by the company to sell the property, and I, on behalf of, I don't know but what I think Mr. McCormick and I together made the offer, I think it was jointly made made an offer to purchase a portion of the property.

Q.—That was on an occasion, you say, that they wanted to make a sale? A.—They wanted to make a sale.

Q.—The Kamloops Lumber Company was wanting to sell out its property? A.—Yes, and they did afterwards sell, but they didn't sell to us, they didn't accept this offer.

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Q.—You and Mr. McCormick made an offer? A.—Yes.

Q.—And you think this is a copy of the offer that was made? A.—Yes, I think that is a copy. I wouldn't say it was an absolutely true copy.

Q.—But you think that was this spring; about what time? I see that the dates are mentioned in it, not as being the date of the document at all, but the date of the performance of certain terms, are April, May, June, July and August. A.—I couldn't tell you about what time that was.

JUDGE MAC TAVISH: Was it this year? A.—Yes, your Honour, it was made this year. The offer was made this year.

MR. SHEPLEY: That is all you can tell us about it? A.—Well, it was made this year. I think in the spring. I could not tell you exactly the date.

Q.—I put that in. (Exhibit 674.) Then what is this document, if you please A.—That is some document of Mr. Ryan's. I see his handwriting. (Exhibit 675.)

Q.—Yes, so it is. A.—You recognize it, too?

Q.—It comes from among your papers, can't you tell me something about it? A.—Yes, I am going to tell you. Don't be impatient.

Q.—I am not. A.—This was a series of questions which Mr. Ryan submitted to Mr. Shields, his partner in the West, as to the cost of the production of lumber in the West.

Q.—What was the occasion of his submitting these questions? A.—Well, he handed me this at one time during the time—I think it was during the time that I held an option and before the transfer of the option. He handed me this list of questions, answered, to show what it would cost. I don't think I ever submitted them to anybody. I don't remember of ever having done so.

Q.—Have you any recollection upon the subject, one way or the other? A.—As to having submitted them?

Q.—Yes. A.—My recollection is that I never did. I would not say that I did not, because I am not positive enough about it for that. But my recollection is that I never did submit it to anybody, but as with the other things this paper happened to be there, I brought it along. I don't think it is very important.

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Q.—Perhaps not. That is all you can tell us about the origin of the document? A.—That is all there is to tell about it.

Q.—It is all you remember? A.—Well, I say that Mr. Ryan handed me this as a list of questions he had submitted to Mr. Shields to ascertain the expense of lumbering on that property.

Q.—In what connection was he handing you this information? A.—I think it was after I had obtained the option, but before I had taken it up, and, of course, he was anxious, I suppose, to give me all the information that was possible.

Q.—In order to enable you to take up the option? A.—Yes.

Q.—Or to decide rather whether you would take it up? A.—Exactly.

Q.—And you understood the answers to these questions were compiled by Mr. Shields? A.—The answers, yes, that is the way I understood it.

Q.—You understood that, I suppose, from Mr. Ryan? A.—I don't know how far accurate the answers are.

Q.—No, I suppose these answers did not form any element in your dealing with the matter? A.—Well, I would not say that they did not, but then all these things would form an element, of course.

Q.—You do not seem to have attached much importance to it, if you do not mind my saying so, and that is the reason I ask you if it did form an element. A.—Well, I don't think it is very important.

Q.—Then I say, did it form any element in your action with regard to the option? A.—It may have. It would be a sort of indication, it would be the view of Mr. Shields, and at the same time Mr. Shields and Mr. Ryan were the sellers. Naturally all these things would form a consideration, what a man would tell you would be a part of the facts upon which you would rely to make up your mind.

Q.—You did not buy upon that, of course? A.—Not upon that alone.

Q.—Did you buy partly in reliance upon that? A.—I would take that naturally as some—I would attach some weight to it, yes.

Q.—Are you able to say you did or did not rely upon it, in carrying out the transaction? A.—Well, I say I would rely to some extent upon it.

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I am not able at this date to say to what extent.

Q.—Are you able to say at this date any more than reasoning back and thinking you probably would, do you remember enough about the matter? A.—That would be about the way of it, I would look upon it as coming from the man selling the property, naturally you would want to know and I dare say I may have asked him as to the cost of lumbering in that country. I dare say I did and it may have been on account of that that he got these answers. I don't know. Or it may have been that he of his own motion supplied them.

Q.—Your memory is not at all clear with regard to this particular document, is it? A.—No, which shows that I did not attach a great deal of importance to it.

Q.—That is what I had in my mind when I asked you if it formed a substantial element in guiding you to a result? A.—I don't think I would call it a substantial element.

Q.—Then I put that in also (No. 675). Then this document is also in connection with the Kamloops Lumber Company, is it not? Dated the 13th April, a letter from Mr. Foster to you? A.—Yes (Exhibit 676).

Q.—Do you remember about it? A.—Well, I don't remember about the receipt of it any more than having the letter.

Q.—Do you remember the circumstances? A.—Oh yes, I remember the circumstances.

Q.—Then, if you will be good enough to let me take it, I will read the letter and ask you a question or two about it. This is dated the 13th April, 1904, from Mr. Foster to Mr. Fowler. (Reads.) "They did not know the division was 51 to 49. That refers to the percentage of the holdings? A.—Yes.

Q.—"These details were well understood and formed the basis of our arrangement." Does that sound to you as though it was an accurate statement of the arrangements? A.—I could not tell what these gentlemen understood, but it is correct as far as my understanding is concerned. I would not speak for them.

Q.—"McCormick goes west to-morrow" with "his men" is it? A.—I would say so.

Q.—"We must also take up and settle, if possible, the Shields proposition." What was that? A.—I think that was the Shuswap matter.

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Q.—I don't think I have asked you any questions about the Shuswap matter. This will be, perhaps, if you will let me, a convenient time? A.—I am at your disposal.

Q.—Will you tell me then about the Shuswap proposition? A.—The Shuswap proposition was a property that was owned by Mr. James C. Shields and some others. It consisted of limits on what was known as Celista Creek, a stream running into the Shuswap Lake. That is how it came to be called the Shuswap proposition. And a shingle mill on the Shuswap Lake. That Mr. Shields was desirous of selling and there was a proposition before the Kamloops Lumber Company, or the parties who were going to compose the Kamloops Lumber Company, for the purchase of that. Price, \$40,000. That is, I suppose, what he refers to there.

Q.—There was a proposition then pending and apparently it was a proposition which came up before the Kamloops Lumber Company was organized? A.—That is our final organization. I think steps were being taken at the time. You see at first as I remember the thing was held in the hands of trustees or of a trustee, Mr. Foster, I think, was the trustee for all the parties. I think this was during the period—the business was being carried on at this time—I would fancy so.

Q.—They were only provisional directors at that time? A.—Yes.

Q.—And this matter had not been got into shipshape at all? A.—Not finally. It may have been that it was running provisionally just the same as before the final organization of the company.

Q.—What was the motive behind the purchase of the Shuswap property, was it to round out the Kamloops Lumber Company or how was that? A.—Well, I suppose that would be it; it was thought to be advantageous and as I understand it, it was thought that a good deal of lumber, do you see, part of it would be useful for shingle bolts that would not be useful to make timber of, there is a good deal of timber that in that way could be utilized that otherwise would go into the fire.

Q.—Who introduced the proposition? A.—I don't remember who did that. It was not myself.

Q.—Irwin and McCormick, or either of them? A.—I don't recall which of them it was. Or who began it, it was all talked over together.

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Q.—Would it be one of those two gentlemen do you think, according to your recollection? A.—It probably was. It must have been one of the three of us, because the other people would not know about it, if it was not introduced by some one of the three, but I don't think I did.

Q.—You would be the least likely of the three according to your recollection. Who would be the most likely of you three according to your recollection? A.—I couldn't say as to that. It does not seem to me that it was Mr. Irwin, but I am not certain of that.

Q.—That is the bent of your memory, as far as it has a bent? A.—Yes, as I have told you before, at the lapse of time there has been I cannot recall who started it.

Q.—Do you recall the introduction of the proposition to those with whom you were dealing? A.—I don't remember the particular occasion, I only know it was introduced and it was discussed. I can remember it being discussed but I don't remember the particular occasion. It must have been previous to April 13th, previous to that letter.

Q.—You don't remember the particular occasion, but you remember there was an occasion? A.—I remember there was an occasion when the matter was discussed amongst those of us who were becoming interested in the property.

Q.—Are you able to say—speaking generally, of course, because I would not expect you to carry the details—what took place during the discussion with regard to it, was it a matter in which the negotiations were protracted or did you close with the idea at once? A.—Well, I fancy that it was discussed on more than one occasion. I fancy that it was. I don't recall that there was any particular objection by anybody to it. There was some question about another property afterwards, the Okanagan property.

Q.—We will leave that by itself at present? A.—With respect to the Shuswap it seemed to be a very feasible idea.

Q.—Had anybody that was taking part in the discussion an option upon the property when it was being discussed or at any time before, or was an option acquired at any time later? A.—No, there was an option acquired.

Q.—By whom? A.—By me, under the direction of the Company.

Q.—You acquired an option, that is from Shields? A.—I think I got

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an option. I don't remember whether there was a written option in that case or not, but I rather think there was, from Mr. Shields. I haven't it and if there was, of course the company—I don't know whether it is in evidence or not.

Q.—The written option was at what figure? A.—\$40,000.

Q.—Then when did the matter eventuate and come to something? A.—It would be some time after the date of that letter, I don't know when.

Q.—I see an agreement here among the exhibits as No. 506, on the 27th May, 1904, between the Shuswap Company and Mr. Foster, trustee? A.—That is in May, is it? Well, perhaps there wasn't any written option at all. I don't know whether there was or not.

Q.—Who conducted the negotiations with Shields, did you? A.—I don't know that I did, but I may have had some talk with Shields about it. I know I had talked with Shields about it.

Q.—At first you know you rather thought you may have had an option? A.—Yes.

Q.—That would indicate that you were doing the negotiation would it not? A.—Well, as I remembered it, as far as both the Shuswap and Okanagan were concerned I thought I was instructed to—I know I was instructed in the Okanagan to take an option and went out to Enderby and did take an option. That is the Okanagan. In the Shuswap I cannot recall whether I did or not, but I know that I discussed it and I know that I was over the property and saw the property.

Q.—And negotiated generally with Shields? A.—Well, yes. I don't know that I did specially, you know, that is whether I was the only one doing it or not.

Q.—How was the price arrived at, \$40,000, between you and Shields? A.—Well, that was his price, \$40,000, and there was never any reduction I think we all talked with him about the price, both Mr. McCormick, Mr. Irwin and myself. We were out there together and I think we discussed the price.

Q.—You say that was his price, do you mean to say that was his first demand? And that then there was negotiating about it before you accepted? A.—He never made any re-

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duction of the price. He told us he was offered \$37,500 and refused it. That is what Mr. James Shields told us.

Q.—And he wanted \$40,000? A.—Yes, and we thought it was a good buy at the price.

Q.—What did you do by way of ascertaining the value of the property? A.—We went over the property.

Q.—Together? A.—Yes.

Q.—Went over the limits? A.—Well, I didn't go with them over the limits.

Q.—What examination did you make, did you take part in, personally? A.—Personally I examined the mill and the houses. There were some houses there at the mill, and the dry kiln and all the things in connection with it. It was a perfectly good buy all the same.

Q.—Well, then were you intrusted with the duty of closing the transaction up with Shields? A.—Well, I did not pay the money, that was paid directly by the company.

Q.—The money was paid directly? A.—By the company.

Q.—Did you have anything to do with the payment of the money at all yourself? A.—I do not think I ever paid any portion of it.

Q.—Did you have anything to do with the payment of it? A.—How do you mean?

Q.—I mean did you have anything to do with it? Were you concerned? Did you take any part in or have any concern with the payment of the money to the Shuswap people? A.—I do not quite understand in what respect you are asking me that.

Q.—In any respect. I want you to judge of that, if you will. A.—I do not recall. I may have, but my recollection is that the cheques were paid directly to Mr. Shields' order at the bank.

Q.—These seem to be the cheques. A.—If you let me see the cheques I may be able to tell you.

Q.—There is one of the 7th September. A.—That is payable to the Imperial Bank of Canada, \$10,000.

Q.—Do you know anything about that? A.—No.

Q.—Do you know anything about this one? That is June. That seems to be the first. A.—The Shuswap Lumber Company, \$10,000—no.

Q.—What do you say? A.—I do not know anything about it.

Q.—You do not know anything of

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the one of the 7th September? A.—No. It is paid by the Union Trust Company and the Imperial Bank of Canada, and the other is payable by the Union Trust Company.

Q.—Is it the Union Trust Company? A.—No, this is payable by John I. Davidson and George E. Foster.

Q.—Who would that be? That would be the Union Trust Company, would it not? A.—Perhaps so.

Q.—Then the next one, 7th September, seems to be what? A.—That is the Union Trust Company.

Q.—It looks to me like the Kamloops Lumber Company. A.—There is the Union Trust Company on it.

Q.—There is the Kamloops Lumber Company. A.—It is the Union Trust Company.

Q.—The Union Trust Company, Limited, is Secretary-Treasurer you will notice. Do you remember that—that the Union Trust Company was the Secretary-Treasurer of the Kamloops Lumber Company? A.—Yes, the Kamloops Lumber Company is about here. I see that.

Q.—You do not remember about it at all? A.—No.

Q.—And this one? A.—That seems to be October 7th. That would be the third one, I suppose. That is \$10,000 as well.

Q.—That is again a cheque of the Kamloops Lumber Company? A.—Yes, that is the Kamloops Lumber Company. I see it does not say Secretary-Treasurer down here, if you will observe, so I took that to be the cheque of the Union Trust Company.

Q.—That is very natural. A.—This one is the Union Trust Company. This is the 7th November.

Q.—Then there seems to be three cheques for \$10,000 each of the Kamloops Lumber Company, but the first cheque of all is the cheque of the Union Trust Company. A.—I suppose that would be because the Union Trust Company was not fully organized at that time.

Q.—Probably that would be so. You do not know anything about these cheques or the destination of them or the destination of the money which they represent. You say that? A.—I suppose they went to Mr. Shields, who was the largest owner and Managing Director.

Q.—They went to Mr. Shields, who was the Managing Director, you would suppose? A.—Yes.

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Q.—Do you know anything about what happened to the money or any part of it afterwards? A.—Yes, I know something about part of it.

Q.—What do you know about it? A.—Some time after this property was agreed upon to be purchased, Mr. Peter Ryan told me that he had—I think it was after we were out there and agreed to recommend it—yes it was—Mr. Ryan said he had a commission in this, of, I think, \$5,000 that he was to get.

Q.—From whom? A.—From Mr. Shields. The same Shields. This I did not know anything about when he recommended it. He said he was to get \$5,000 commission on the sale. Well, I did not know that Mr. Ryan had done anything towards the sale. He did not, so far as I was concerned; in fact, he had not discussed it with me until he told me this. I do not know that Mr. Ryan at that time knew that the recommendation had been made for the purchase. He offered to split the \$5,000 with me, and I received from Mr. Shields, Mr. James Shields, some money, this \$2,500 for which I gave Mr. Ryan credit on the account which was due from him to me in connection with the Kamloops, and even then the amount was not made up. That is all I know about that.

Q.—What about the other half of Mr. Ryan's commission? A.—I do not know anything about that.

Q.—What did you get? \$2,500 only? A.—From Mr. James Shields?

Q.—Yes. A.—I think that he paid me more than that. I think Mr. Ryan gave me an order. That was part of the consideration of the Kamloops, you see, but it was not in connection with the commission at all. Mr. Ryan said he would give me half of the commission.

Q.—What I would like to get, if you can remember and get me, how much money did Mr. Shields give you? A.—As near as I can remember, it was about \$4,000.

Q.—Was it by any chance, as much as \$10,000? A.—No, it was not by any chance as much as that.

Q.—Not by any chance as much as \$10,000? A.—No, it was not.

Q.—When you say you think it was about \$4,000, how do you fix that? A.—That is my recollection of it.

Q.—Did you bank it? A.—I suppose I did.

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Q.—Where did you bank it? A.—If I banked it, I did it at home, where the cheque was sent to me.

Q.—At Sussex? A.—Yes, where the cheque was sent to me. I do not think it was sent in one lot, but I never had any talk with Mr. Shields about the commission in any way, never had any agreement with him for commission. I never asked him for commission, or he never offered me commission. Mr. Ryan afterwards told me he was to get \$5,000 and that he would give me half of it, and then there was a large balance due me through Mr. Ryan on account of the sale of the Kamloops Lumber Company, and he gave me these orders, which I took, and afterwards got the money from Mr. Shields for.

Q.—Then you got altogether \$4,000 from Mr. Shields? A.—Yes, at least that, and I think that was all.

Q.—You did not get the whole \$5,000 Ryan was claiming? A.—No.

Q.—You are sure of that? A.—I am certain of that.

Q.—You got \$4,000 then? A.—And mark you; the part that Ryan said he would give me as commission was \$2,500, but I was very willing to credit him with the whole amount in connection with the account standing between us.

Q.—Did you ever render him an account showing that credit? A.—I don't know that there has ever been a rendering of an account between us. I know that there has not been.

Q.—That I shall have to ask you about a little later on. Then you got \$4,000 or more altogether. What you told me first was that you credited \$2,500 to Ryan? A.—I credited the whole amount I got to Ryan.

Q.—So you said subsequently, but you said at first only \$2,500? A.—You were only speaking of \$2,500 of Ryan's commission, and I credited that to him.

Q.—What was the amount of the order that you had from Ryan? A.—I don't remember that.

Q.—\$10,000? A.—On Shields—no, I don't think so.

Q.—Why did you ask me "On Shields?" You spoke of the orders yourself. Would those orders Ryan gave you amount to \$10,000? A.—No, I do not think so.

Q.—Are you sure about that? A.—Well, I am quite sure about that.

Q.—So sure that you will say so with certainty? A.—Yes, I will say

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with certainty that they did not amount to \$10,000. They may have amounted to more than \$4,000.

Q.—May have amounted to \$6,000 or \$7,000 or \$8,000? A.—No, I don't think so much.

Q.—Well, give me your best estimate of the amount? A.—Well, my best estimate of the amount is \$4,000.

Q.—But you are not clear about that? A.—No.

Q.—I want to see what amount you will go to? A.—The \$4,000 is as near as I can recollect all the money I got.

Q.—You will not say you did not get \$5,000 or get orders for five. I am asking you about orders now? A.—Now, I remember there was \$1,000 which Alec Shields got from the amount which was to be paid by James to Ryan; so that there may have been originally an order for \$5,000, but there was \$1,000 which went to Alec, which Ryan owed to Alec Shields, and Mr. James Shields paid this \$1,000 to Alec on account of Ryan.

Q.—And did not pay it to you on your order? A.—No, did not pay it to me on my order.

Q.—You had no knowledge of this commission at all, until Ryan spoke to you about it? A.—None whatever.

Q.—Ryan had not introduced the property to you? A.—No sir.

Q.—Did you make inquiries about it to find out what his claim was based upon? A.—Well, I afterwards understood from Mr. Shields that he had employed Ryan to sell the property for him.

Q.—But Ryan had not sold it to you? A.—Certainly he had not sold it to me. I do not know what other efforts he may have made, and I do not know what statements he may have made to Shields, or what he may have made him think that he was doing in that regard.

Q.—You did not communicate to Shields information that you of course had that Ryan had not had anything to do with the sale to you, or did you? A.—No.

Q.—You did not look upon that as being any of your concern? A.—Well, the proposition was already accepted.

Q.—Oh no? A.—Whatever commission Mr. Shields saw fit to pay out of the property was none of my business, except, of course, if I had information the property could have been obtained for that much less, I

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would have endeavored to get it for that much less. But I did not know it at that time.

Q.—Did you ever hear from anybody at any time about the original consideration of \$40,000 having only to the extent of \$30,000 reached the Shuswap people? A.—I never did.

Q.—You never heard of that before? A.—No.

Q.—Nobody has ever suggested that in your hearing at any time? A.—No, not even Mr. Shields, it certainly did not come to me.

Q.—Then do I understand you to say that all the money you got on those orders or that order—was there more than one order? A.—I think just the one.

Q.—You say that all the monies you got on that you credited against the \$55,000? A.—Yes, and still there was a balance unpaid.

Q.—You say you have never made up the accounts in regard to that? A.—No, we have a lot of dealings between us in connection with other matters and it has never been settled.

Q.—This is an account you speak of particularly, that you credited this account against the \$55,000? A.—Yes, the other matters were subsequent.

Q.—Is that complicated with other transactions? A.—No, the other matters are subsequent.

Q.—That is what you tell me with regard to this particular transaction; Ryan offered you half a commission of \$5,000? A.—Yes.

Q.—He offered you that? A.—Yes.

Q.—On what grounds? A.—I suppose he thought—he did not know, I suppose at the time that the recommendation had been made, that practically the property was sold. He may not have known at the time; he did not say, but he just simply said, "I am going to get a commission out of that of \$5,000 on that, for that sale, and you can have half of it."

Q.—If you would recommend it or how? A.—No, he did not even attach that to it.

Q.—You never reported that, I suppose, to anybody in connection with the transaction? A.—No.

Q.—It did not occur to you that you could take that \$2,500 and turn it over to your associates in ease of the price? That did not occur to you? A.—If the \$55,000 had been paid that would have been a matter I would have considered. But until

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that was paid I wanted to get all I could upon that.

Q.—I appreciate that. Then what I was asking you was whether that occurred to you to do that? A.—Well, I say that would occur to me then.

Q.—It did not occur to you? A.—It would occur to me then. What occurred to me at that time was to get all I could on this \$55,000 claim, and afterwards when that was paid up I would consider the other part of it.

Q.—Of course that \$2,500 or \$4,000, or whatever it was, came out of the Shuswap purchase money? A.—Well, it came from Ryan.

Q.—It came out of the Shuswap purchase money? A.—He was entitled to it.

Q.—It came out of the Shuswap purchase money? A.—I cannot say.

Q.—Won't you subscribe to that? A.—I cannot say, because the money did not pass directly to me from the Shuswap purchase money.

Q.—Did you not understand it was in connection with the sale of the Shuswap property? A.—I certainly did, but to say it came out of the money, I am not going to say that.

Q.—The vendor would be remunerating his agents out of the purchase money? A.—He might or he might not. He might take it out of some other matter. If you are speaking of the particular money I do not know.

Q.—I am not speaking of the particular money? A.—Then, of course, the vendor would remunerate the agent.

Q.—Out of— A.—Out of any moneys that he might have.

Q.—But the purchase money is the proper place to take it out of. That is what he got by the agent's effort? A.—Perhaps that is what he would take it out of.

Q.—That would be the natural place to take it out of. Will you go that far? A.—I would say that would be the natural place to take it out of, but whether he did or not I cannot say.

Q.—And of course it did not come out of the original Kamloops deal? A.—No, Mr. Shields had nothing to do with the Kamloops deal.

Q.—That was the transaction so far as you are able to tell us now about the Shuswap matter. Now, will you tell me about the Okanagan matter. Had you also to do with that? A.—I had something to do with it, yes.

Q.—What had you to do with it? A.—Well, I think that it was Mr.

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Irwin who made the proposition to sell—it was either Mr. Irwin or Mr. McCormick, I do not know which, that broached the subject of the Okanagan property, and they were shareholders, stockholders in the Okanagan company.

Q.—What is that? A.—They held stock in the Okanagan property and the bargain was made between them and the Kamloops people, the Kamloops company, or the provisional directors.

Q.—Had you anything to do with that? A.—Well, I was there.

Q.—Taking part in the negotiations? A.—Taking part in the negotiations.

Q.—Where were the negotiations held? Where did they take place? A.—In Toronto.

Q.—And when? A.—Along, I think, before the company was finally organized.

Q.—Before the Kamloops Company was finally organized? A.—Yes; whether it was before the Shuswap—whether the Shuswap came first or the Okanagan came first I do not remember, or whether they were simultaneous I do not remember.

Q.—There was not much difference in time? A.—I guess not. I guess they were pretty close together.

Q.—And the negotiations were going on contemporaneously and would you say with regard to this purchase, what you said with regard to the other, that you and McCormick and Irwin were looking at the property? A.—I never examined the property.

Q.—You did not examine it at all? A.—No. I had seen the property.

Q.—With whom were the negotiations for the purchase? A.—They were with Mr. Irwin more than anybody else I think.

Q.—That is to say acting as vendor? A.—Yes, I think so.

Q.—Anybody else in connection with the matter? A.—Mr. McCormick was there.

Q.—Who is Mr. Hale? A.—He was the Managing Director of the Okanagan property.

Q.—Were there any negotiations with him as far as you were concerned? A.—Oh yes, eventually there were.

Q.—I mean before the property was purchased? A.—Oh yes, I was instructed to take an option.

Q.—Did you take an option? A.—Yes.

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Q.—Irwin and McCormick you told me were registered in the Okanagan Company? A.—Yes.

Q.—What was the Okanagan Lumber Company's property? What was the nature of it? A.—Just an ordinary lumber property, mill and timber limits and horses and wagons and sleds and camp outfit.

Q.—And logs? A.—Yes, logs, too, of course. If they had lumber they would have logs and houses and lots.

Q.—Did you become aware—because from the documents that we have had hitherto, indicate that you were pretty intimate with the transaction as it went through—were you aware of the interests of Irwin and McCormick? A.—Oh yes, they were making no secret of the interest.

Q.—Were you aware of the extent of it? Was it a large interest? A.—Yes, they had a large interest.

Q.—Can you give me the proportion of their individual holdings as compared with the whole? A.—No, I do not know the proportion. I think they were as large holders as anybody.

Q.—Perhaps larger. A.—Perhaps larger. Mr. Irwin very fairly stated that before the company, and therefore they sent out Mr. Alexander Hamilton, one of the leading lumbermen of Ontario, to examine this property and report upon it, which he did.

Q.—You have told me, I think, that it was Mr. Irwin who introduced the subject of the purchase. A.—I think it was.

Q.—Before the Kamloops was finally organized? A.—Yes.

Q.—What took place with Mr. Irwin upon the subject? What was his attitude with regard to it? A.—Well, Mr. Irwin was very strong in urging upon the company the advisability of purchasing the Enderby property.

Q.—How strong was he? How far did he go? A.—Well, he said he would buy it himself if they did not.

Q.—That he would buy it himself? A.—Yes.

Q.—If they did not? A.—Yes.

Q.—He already had a large interest in it? A.—Yes.

Q.—What did he mean by buying it himself, do you suppose? A.—I suppose what he meant was that he would take up the property himself and operate it.

Q.—And operate it in competition with the Kamloops? A.—I suppose it would be in competition, and yet

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I do not know that it would be in competition, any more than that there would be two mills running. You see if there are a dozen stores in a town they are in competition in a certain sense.

Q.—Would it be fair to say that it was by pressure of that kind that he brought the purchase about? A.—You can call it pressure if you like.

Q.—I know I can, but would it be fair to call it that? A.—Well, pressure seems to be a pretty strong term.

Q.—You were there and I was not. A.—Well, they were all adults, the men who were considering this matter; and they knew their own business.

Q.—And they were all partners, too? A.—And what you say about pressure would, I think, hardly apply. I said that Mr. Irwin urged very strongly the purchase of this property.

Q.—And said that if they did not purchase, if his associates did not purchase it, he would purchase it himself and run it? A.—Yes, I think his arguments prevailed with the company.

Q.—Did he say what, if he took up the Okanagan proposition, what he would do about the Kamloops proposition? Did he say he would stay out of it? A.—Oh, yes; he would be put out of it.

Q.—He would leave the one proposition and devote himself to the other? A.—Yes.

Q.—Unless his arguments were acceded to? A.—Yes, he seemed to be more favourable to that property than to the other.

Q.—We won't give it the name pressure or any other opprobrious name. A.—Sometimes pressure is not an opprobrious name. It depends on how it is applied and where.

Q.—Were you entrusted by the Okanagan Company with the receipt of the purchase money? A.—Yes, that was just for convenience.

Q.—And you did receive all the purchase money? A.—I think so.

Q.—What was the amount of it? A.—\$175,000.

Q.—Do you know how much of that was distributed to the stockholders? A.—It was all distributed so far as I was concerned.

Q.—To whom did you pay it? A.—I sent it principally to Mr. Hale and some to the Bank.

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Q.—How much did you send to Mr. Hale? A.—I cannot separate the amount.

Q.—What did you send it to Mr. Hale for? A.—He was the Managing Director.

Q.—Did you send it to him or the company? A.—Well, I may have sent some of it personally to him and some of it went to the Bank directly.

Q.—What I mean by my question is this: were you paying it to Hale or to the Okanagan Lumber Company? A.—Well, that was a matter between them and me.

Q.—How do you mean between them and you? A.—That was a matter the Kamloops Company had nothing to do with. The Kamloops Company bought this property, did not buy it through me—bought it from the parties themselves.

Q.—You were one of the Kamloops Lumber Company? A.—Exactly. I, not as member of the company, but as an individual, was entrusted by the company—they gave me power of attorney I think it was—

Q.—Is there any physical difficulty—I do not mean any mental or moral objection, but is there any physical difficulty in your telling me just how you did pay that money over and to whom? A.—I told you I paid part of it to the Bank of Montreal at Vernon.

Q.—For the credit of whom? A.—For the credit of the Company, the Okanagan Company. I think I gave some of the money to Mr. Irwin and some to Mr. McCormick, and the balance went to Mr. Hale.

Q.—The part that went to the Bank of Montreal, if I understand the transaction—I have glimmers with regard to it—the part that went to the Bank of Montreal was the ostensible money that reached the shareholders other than Irwin, McCormick and Hale? A.—Oh no.

Q.—Do you say so? A.—Yes, I say so.

Q.—How much did you pay into the Bank of Montreal? A.—I do not remember.

Q.—Can you find that out? A.—I do not know whether I can or not. I suppose so.

Q.—I wish you would find that out for me if you see no objection to that. Then I would like to know how much you paid to Irwin, how much to McCormick and how much to Hale? A.—Yes.

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Q.—And did you pay out in those four quarters all the money? A.—The money was all paid to the stockholders in the company. I had no commissions or anything else in connection with the matter.

Q.—I asked you if you paid all the proceeds of the sale which came to your hands, every dollar of it, in those four quarters? A.—Well, I paid some to Mr. Bull. He is a stockholder, you have had the evidence about that.

Q.—Whom else did you pay it to? A.—There was money paid to another one of the stockholders, Mr. Beattie.

Q.—Anybody else? A.—There were liabilities paid.

Q.—Did you pay those? A.—I paid some and they paid some.

Q.—What liabilities did you pay? A.—There was a liability that they owed to me, for instance, which was paid.

Q.—What did they owe you for? A.—For moneys advanced.

Q.—Won't you tell me a little more about it? A.—Yes, I will tell you all you want to know about it.

Q.—Tell me more? A.—That is all there is about it to tell.

Q.—Oh, no? A.—Money I advanced to them before this transaction took place.

Q.—What money had you advanced to them and when? A.—I think what they owed me was something like \$22,000.

Q.—When did you advance that to them? A.—About three or four months before this transaction.

Q.—How did you come to do that? A.—Mr. Hale.

Q.—Mr. Hale had asked you to advance money to whom? A.—To the company, and it was intended that I was to become a stockholder in the company, but I never got any stock.

Q.—Intended that you were to become a stockholder? A.—Yes.

Q.—Do you say the money you had advanced was in expectation of getting stock? A.—In expectation of becoming a stockholder, and if the property had gone on and had not been sold, I would have got stock for my money.

Q.—You were to get stock for the money? A.—The \$22,000.

Q.—Was that what you were proposing to subscribe? A.—Yes.

Q.—Did you make any stock subscription in their books? A.—No.

Q.—Just so far as the records are concerned, it rests in the recollection

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of yourself and Mr. Hale? A.—Yes, it rests in our recollections. I had accepted certain drafts that were made up. I had accepted certain drafts from them and paid these drafts.

Q.—Tell me about that. He asked you to accept those drafts? A.—Yes.

Q.—What did he ask you to accept drafts for? For the accommodation of the company? A.—On account of the company.

Q.—For the accommodation of the company A.—No, it was with a view to becoming a stockholder.

Q.—All at one time? A.—No.

Q.—Tell me how you paid it out? Tell me as nearly as you can. Do you keep books? A.—No, I do not keep any books outside my office.

Q.—You do not keep any books in connection with transactions of this sort? A.—No.

Q.—Keep it all in your head? A.—No, I would have the cheque when I would pay for this thing. And the cheque would be the voucher.

Q.—Where are the cheques? A.—Well, the transaction was closed four years ago and, of course, I have not the cheques now.

Q.—That is your method of doing business outside of your law business, altogether, is it? A.—Exactly. Now, you see, Mr. Shepley, these gentlemen were all interested in this company. So far as these gentlemen were concerned, they were the vendors of the property and they got the money and that is all there is to say. I got no commission whatever of any kind.

Q.—You see what you have said, if I understood you correctly, was this, that out of the purchase money you retained your \$22,000. A.—That is right.

Q.—And you do not think it unfair for me to be a little anxious to find out under what claim you kept it, do you? A.—Of course I do not recognize any right you have to inquire, but you have pushed your right very far, and I am not objecting on that ground. I only say this, that those are the facts that I have related to you, and that I had accepted drafts and I had paid them a certain amount of money, and the intention was, I intended to take up a certain amount of stock in the company. They found it was necessary to have more capital in the company than what there was at that time, because they had large liabili-

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ties and the intention was that I should become a member of the company. I suppose in one sense, perhaps, I was a member of the company, although no stock had ever been allotted to me nor I had signed no application for stock, but it was the intention I should become a stockholder. Then when this matter came up and Mr. Irwin insisted upon them taking over the company, why, of course, it was not necessary to reorganize the Okanagan Company, it became absorbed in the Kamloops Company. Mr. Irwin stated that he had an interest in it and therefore he objected to their taking his statement as to the value of the property and Mr. Davidson, Mr. John I. Davidson, I think, was President of the Kamloops Company at the time, he had a friend, Alexander Hamilton, a lumberman in Warren, Ontario, and he proposed that Mr. Hamilton should go out and examine the property. Mr. Hamilton did go out and examine the property, and reported very favourably on the property, and the result was the property was bought.

Q.—Now, that is a very full account of what preceded the sale. Then you received the purchase money? A.—I received the purchase money and paid it out, as I have said. As to the details of how it was paid I cannot give you the details. I have not kept the details in my mind.

Q.—And you have not got them in any book? A.—No, I do not think it necessary to have them, because the gentlemen were there themselves that were interested in the company and it was for them to say whether they were satisfied or not.

Q.—I do not say that it is necessary or not necessary, but at all events you have not kept an account in any book with regard to it? A.—No.

Q.—You have no account, no cheque, nothing now available? A.—Nothing now available.

Q.—How often do you destroy your cheques? A.—Well, those are matters outside my regular business. I never pay any attention to my cheques after I examine them after they come in.

Q.—Do you tear them up then? A.—Generally they are thrown in the waste paper basket.

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Q.—And if they are cheques like the \$22,000 that entitle you to be paid money, or get stock, keeping no account of them in the books, and relying on your cheques, what do you do with them? Preserve them? A.—I preserve them until the transaction is finally closed as this one was. What is the use of keeping cheques?

Q.—It might have been a great satisfaction? A.—To you?

Q.—No, it might have been a satisfaction to you to show them to us. A.—I do not know that it would be any particular satisfaction to me. I am perfectly easy about the matter.

Q.—Do you, as a matter of fact, remember about these particular cheques and their destruction? A.—I do not remember these particular cheques and their destruction.

Q.—When would you say you destroyed them? A.—Well, I suppose when the whole matter was closed. These cheques would come in and I would be familiar with them at the end of the year. When the bank hands over the cheques you are supposed to sign a receipt for your account; then I fancy the cheques would be thrown away, to one side. I would go over them and see that they were all right. The transaction was closed and there would be no object in my keeping the cheques. I should doubt very much whether you—

Q.—Did you destroy them? A.—I do not know when they were destroyed. I never particularly destroyed them. I never at any time took these cheques—

Q.—You never consciously destroyed a cheque? A.—No.

Q.—You never consciously destroyed a cheque? A.—A cheque— No, I do not say that.

Q.—You never consciously destroyed those cheques? A.—No.

Q.—You never then had the intention of destroying them? A.—Never in the world.

Q.—What do you do with the cheques you do not intend to destroy? Have you any place in your office? A.—I have told you several times when the cheques would come in in a bunch as they do—I suppose you are familiar with that sort of thing—they are sent in by the bank at the end of the year, with a slip, which is a receipt of your account as it stands, and there are your cheques. I go over those cheques, do you see, and the whole thing would be—when

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I would remember the whole thing, the whole thing would be in my mind, and the cheques would be cast to one side, thrown in the waste paper basket and probably burned.

Q.—I thought you said you did not consciously— A.—I say I did not consciously take those particular cheques and destroy them, no not at all, but I say they went in the regular order, the way I do ordinarily with the cheques after I am through with them.

Q.—And that is putting them in the waste paper basket with the intention of being destroyed? A.—Exactly, but I do not remember the particular time these were thrown aside, but that is my custom.

Q.—That is your custom? A.—Unless I may have some particular reason.

Q.—With respect to matters finally closed? A.—With respect to all matters finally closed.

Q.—Do you sometimes go so far as to make up an account from your cheques where there is a transaction that is not closed? Do you ever render any account to anybody in connection with transactions such as those? A.—Of course I sometimes render an account, sure.

Q.—And you say you have no source from which to make up those accounts except your memory and the cheques that are returned to you? A.—Not after the matter is closed and closed for three or four years, of course.

Q.—Well, while the matter is going on, have you anything in which you keep an account, any memorandum book or note book? Did you ever make a memorandum with respect to these matters? A.—I may have had a memo. with respect to this. I dare say I did, but I have not any memorandum now. The matter was closed three or four years ago, and that was the end of it as far as I was concerned.

Q.—Then from your manner of keeping your transactions in order and keeping track of them, might we perhaps hope that you would have a stub book for your cheques, out of which the cheques were taken? A.—I might have or might not.

Q.—Do you keep a cheque book? A.—When the thing is through why of course the stub would not be as good a thing to keep as the cheque book. When the matter was finished, if all the transactions in connection were finished, I suppose it was thrown away.

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Q.—Do you say it was? A.—I do not know where it is. I have never seen it.

Q.—You have not told me yet. Do you as a matter of routine, keep a cheque book and enter in the stubs of the cheques you tear out, the contents of the cheques? A.—Very often, sometimes I do not, but very often I do.

Q.—What is the guide— A.—If there is anything important I want to keep a record of it for I do. I should think in the case of these cheques that I would.

Q.—Have you looked for the stubs of any of these cheques? A.—No, I did not look particularly for the stubs. After that lapse of time I would not think they would be of any assistance.

Q.—You would not expect to find them? A.—There might be some of them; I would not say that I would not be able to find a stub that would have some of these cheques in it, but I did not look for it. It might be possible that I could, but I doubt very much if I could find any of the cheques at this stage.

Q.—We heard from Mr. Bull a certain statement upon which the distribution was made. Are you aware of the statement he made with regard to that—the proportion, the basis upon which the distribution among the stockholders of the Okanagan Lumber Company was made? A.—I do not know.

Q.—Are you aware of what he said? A.—No, I do not know what he said.

Q.—How many dollars for each dollar of stock did they get, or for each dollar they had paid into the company would they get out? A.—Mr. Bull's stock was purchased at \$2 for \$1.

Q.—Purchased by whom? A.—I think he assigned it to Mr. McCormick and myself, but I think that is the way it came out—about \$2 for \$1.

Q.—Do you know how much money had gone into the company? A.—No, I do not.

Q.—Did you see their Annual Report in the course of your dealings with these people? A.—I might have. I do not recollect it now.

Q.—Do you remember what the Balance Sheet showed at all? A.—No.

Q.—You would not be surprised to hear that the Balance Sheet did not show any such money in the company as \$175,000? A.—Oh well, of course, they would make a profit on the sale.

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A.—About how much profit? A.—I do not know.

Q.—Who got the profit? Mr. Bull did not get any more than 2 to 1. Who got the big profit in it? You and McCormick? A.—And the other shareholders.

Q.—Irwin? A.—Yes.

Q.—Hale? A.—Yes.

Q.—And what other shareholder got any profit greater than Mr. Bull got? A.—Well, I do not know.

Q.—Were you treated in the distribution as a shareholder? A.—I think about two to one was about what was obtained.

Q.—You were treated as a shareholder? A.—Yes.

Q.—And you took a profit accruing upon your presumptive stock? A.—Yes, as I had a right to.

Q.—What was the amount of your presumptive stock? To what amount were you treated as a shareholders? A.—I think I was put on the same basis as Hale and Irwin and the others.

Q.—What basis were they on? A.—I think it amounted to about two to one. I am not certain about that.

Q.—That is \$2 for every \$1 that was put in? A.—Yes.

Q.—Were you treated as having put in \$22,000? A.—I was treated as having put in the same as they had; then the difference between the stock I had was treated as a liability—

Q.—You will have to make that a little plainer? A.—Supposing I had put in say \$20,000, and supposing \$15,000 of this would be the amount of the stock, \$15,000 of that would be treated as stock and the other would be treated as a liability.

Q.—That is you would get the excess over the assumed sum, whatever it might have been, you would get that excess back as a debt due to you? A.—Yes.

Q.—And as to the rest you would be treated as a shareholder upon the same footing as Irwin and McCormick? A.—Yes.

Q.—In addition to getting back your \$22,000 you made the profit upon the assumed stock? A.—Yes.

Q.—Were your friends in the Kamloops Lumber Company taken into your confidence with regard to this at all? A.—I do not see why.

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Q.—I am not saying why, but were they as a fact? A.—No. I did not sell the property to them and I had a right to be a stockholder. I could have demanded my stock any time previous to that. It simply meant the stock had not been issued to me. That is all.

Q.—Did you tell your new friends in the Kamloops Lumber Company that you were in the position of a stockholder at all? A.—No, I did not tell them.

Q.—Did you tell them you had made any advances there? A.—No.

Q.—You did not make them aware of your financial interest in the Okanagan Company at all? A.—No. You see they were not dependent upon anything that was said by Mr. Irwin or Mr. McCormick or myself. They sent an independent cruiser there, and they made the contract with these other people and it was not necessary for me to say anything at all. I was going out—

Q.—Going out where? A.—Out to Enderby in connection with some other business, and they instructed me to have the option made to myself.

Q.—Was there an option in that case? A.—Yes, you have it there.

Q.—Made to you? A.—Yes, I think I gave it to you among those papers. I think I have a copy of it.

Q.—Would you agree that as you were instructed to take an option, that in taking the option you were the agent of the Kamloops Company? A.—Yes, in taking that option, just for that purpose, just to take the option. I was no agent to purchase.

Q.—You make a distinction between being an agent to purchase and an agent to take an option? A.—Yes, because you see the purchase had been agreed upon between Irwin and the Company.

Q.—The amount at which the option was to be taken was agreed upon? A.—Exactly, and all that was necessary for me to do was to have the option made to me. In this case I was an agent as distinguished from the purchase of the original Kamloops property in which I was not an agent. It was vendee and vendor, but to fix the price I was not an agent, because that was done by the principals.

Q.—Were you an agreeing party to the fixing of the price? A.—Yes.

Q.—You agreed to that from the standpoint of the Kamloops Com-

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pany, as one of the Kamloops Company? A.—Yes, I agreed to it, provided the property was found to be valuable, and they sent Mr. Hamilton out for the purpose of ascertaining that.

Q.—Then you would not see anything inconsistent in your making a profit as vendor out of the purchase, having been charged with taking an option? A.—Why anybody could have taken the option.

Q.—You would not think it— A.—Not where I did not sell the property.

Q.—You would not think there was anything incongruous about it? A.—Not where I was not vendor and vendee both.

Q.—In this case you were? A.—You see McCormick and Irwin were in the same position as I was with respect to the Kamloops Lumber Company. Well, if there was no harm in them making the sale, if it was perfectly satisfactory to all parties, I do not see where the difficulty was. I did not make the sale. I did not propose the sale. I did not insist upon the sale as far as I was concerned at all; simply I was requested since I was going out there, by the Kamloops directors to have the option taken to me, and I came back and transferred it, all the contracts having been made by them.

Q.—You had been interesting yourself somewhat in the company, making advances, looking towards the holding of stock? You had probably some rough knowledge of the position of the company had you not? A.—Well, I had what I had been told about it, and I believed the parties that told me, and I was satisfied they were in the thing—that it was all right, and the events proved it was all right, because it was a valuable property and worth a good deal more than the Kamloops Company gave for it.

Q.—At the time the negotiations were going on between Irwin and McCormick on the one hand and the Kamloops people on the other, you would be pretty well aware that the figures that were being proposed would involve a profit? A.—Oh yes, naturally.

Q.—A very considerable profit? A.—I naturally think they would involve a profit.

Q.—In which, of course you were expecting to share? A.—Yes. I

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thought I ought to share, because I was entitled—

Q.—You were expecting to share?

A.—Yes, naturally I was.

Q.—And perhaps your being authorized to receive the purchase money had something to do with that, so that you might protect yourself? A.—Well, the company authorized me to receive the purchase money.

Q.—At your expense, perhaps? A.—No.

Q.—It was a voluntary thing? A.—Yes.

Q.—Quite voluntary? A.—Yes, not at my instance at all.

Q.—You had not expected that at all? A.—No, I had not expected it and did not care anything about it. There was no advantage to me to have the money pass through my hands.

Q.—Well, then, knowing that the transaction involved a profit and expecting to share in that profit, you did not disclose either fact to your co-directors in the Kamloops Company? A.—No. If I had been a stockholder that might have been so, but they did not inquire—

Q.—You expected and intended to be put upon the footing of a shareholder for the purpose of sharing in the profits? A.—I expected to be a shareholder if the property had not been sold.

Q.—But those circumstances you did not think it necessary to disclose? A.—No, I do not see what that had to do with it. It would not have affected the sale in any way, because the sale did not depend upon me in any way, shape or form.

Q.—I think you would not dispute that in respect of the Shuswap matter you were an agent, because you were entrusted with the negotiation?

—No, I do not know that I was entrusted with the negotiations. I do not think that I was entrusted with the negotiations in the matter at all.

Q.—Would you think yourself at liberty in the Shuswap matter with such a position as you were given in the negotiations by the Kamloops people, would you have thought yourself at liberty to make a secret profit for yourself? A.—No, I do not think perhaps I would.

Q.—And that probably was because you would think you were— A.—I do not think I should have taken a commission from Shields in the matter.

Q.—Because you were really acting for the vendee? A.—Yes, exactly. While I was not acting alone in making the purchase or fixing the price,

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yet I was acting in a sense in that way, and I do not think I should take a profit.

Q.—You do not think that was so in the matter of the Okanagan Company because the taking of the option you regard as a mere formality? A.—Yes, and I think the other is different.

Q.—Will you tell me in a word, because you can in a word—you have already done so, and I want your attention directed to this before I ask the next question. What difference do you make between these two transactions in that respect and the main Kamloops transaction? A.—Oh, I make a very wide difference.

Q.—Just put it in a word? A.—In the case of the Ryan property—we will call it the Ryan property to distinguish—in the case of the Ryan property I was an independent vendor; on the 24th October I took an option on the property without at that time any idea of placing it with these people at all, but having the idea and the intention and the expectation of placing it with another party altogether. When I took the option on the Ryan property I had no intention or expectation of placing the property with these people but with an entirely different party. Afterwards when the negotiations fell through I then went to Mr. Foster and the Union Trust Company and suggested their taking up this property. During the time these negotiations were pending between me and them with respect to the property, the time for my option to lapse had arrived. I then went to the solicitor for Mr. Ryan and notified him that I proposed to take up the option, and instructed him to prepare the agreement of sale, which he did, and on the 26th January that agreement of sale was signed by myself and Ryan.

Q.—Where is that? A.—I think you have it in these papers. That agreement of sale was signed between myself and Ryan. I became the owner of the property then subject to the payment to Mr. Ryan. That was mine. I was not bound to these people. They were not bound to me. They need not have taken over the property. I have never been instructed to act as agent for them. I was not acting as agent for them in any sense. They need not take over the property unless they liked. They could have turned it down at any time until I transferred the property in February,

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two weeks later. I say the position was altogether different.

Q.—Have you since you discussed this matter ever looked at the terms of this agreement which you signed on the 8th February, 1904? A.—I have.

Q.—And which you have been good enough to let me have to-day? A.—Is that the transfer you mean?

Q.—This document. You can take it with you during adjournment? A.—I will take it with me.

(The Commission adjourned at 6.15 p.m. until 8 p.m.)

EVENING SITTING.

Commission resumed at 8 p.m.

Examination of GEORGE W. FOWLER by MR. SHEPLEY continued.

Q.—I dare say, Mr. Fowler, that you have quite appreciated why I wanted you to look at this document, or would you say that you have not had time to look at it? A.—I looked at it, yes.

Q.—Do you understand what I have in my mind? A.—Well, I do not know. I would not like to say what you have in your mind.

Q.—You saw the recital? A.—Yes, I saw the recital.

Q.—Does that suggest anything to your mind? A.—In what respect?

Q.—This is dated 8th February, 1904. This is the turning over by you of the option of course? A.—No.

Q.—Well, what is it? A.—It is not the turning over of the option.

Q.—What would you call it? Turning over of the agreement? A.—No, nor of the agreement.

Q.—What would you call it in concise terms to describe it? A.—Well, it appears like an agreement between us with respect to the formation of a company. You have the document, I gave you the document which turns over the option.

Q.—How would you describe this? A.—I would call that an agreement for the formation of a company.

Q.—You were of course a party to this agreement? A.—Yes, I signed that.

Q.—You were a party to it. You were a party to the preparation? A.—Signing it made me a party to it of course.

Q.—Would you say that you are not a party to it in any other sense than just signing it? A.—I did not prepare it.

Q.—That is not quite what I ask you? A.—In what other sense would I be a party to it?

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Q.—Were you a party to it in any other sense? A.—I am a party to it because I am mentioned in it as one of the parties, and I signed as one of the parties.

Q.—And I suppose the document is intended to represent what the fact was? A.—I suppose so. It does not altogether represent the fact in one of the recitals there I notice.

Q.—You would not feel inclined to complain of that I suppose? A.—I did not prepare the document. If I had prepared the document I would not have put that in.

Q.—You would not feel inclined to complain after you have signed, and apparently deliberately signed— A.—I could not very well complain.

Q.—You could not complain, that does not really represent what the fact was? A.—The document of the transfer shows itself what the fact is, and the recital—

Q.—For the moment I want to just speak of this document, if you will be so very good as to let me. Now, do you feel inclined to complain of this as an accurate recital? A.—Well, I say the recital there is not altogether accurate.

Q.—In what respect? A.—The second recital I think I refer to.

Q.—What is it? A.—It says "And whereas in pursuance whereof an agreement has been entered into between Peter Ryan of the City of Toronto and the said vendor," etc., "giving to the said vendor the right or option or privilege." The agreement of the 22nd January gave no right or option. It was an actual sale. So I say the recital is not altogether accurate.

Q.—Is that the only recital that is wrong? A.—It is correct enough otherwise, because we were going to purchase that property.

Q.—Before going into the document a little more in detail, I would be very glad if you would say whether you think there is anything else, having looked at it during the intermission if there is anything else in which you think it is inaccurate? A.—With the reading I got of it, that would be the only criticism I would make at the present time.

Q.—That is dated 8th February, 1904, and it is made between you of the first part and Mr. Foster, the trustee, of the second part? A.—Yes, I was vendor.

Q.—Hereinafter called the vendor? A.—Yes.

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Q.—Of the first part, and Mr. Foster hereinafter called the trustee of the second part? A.—Yes.

Q.—Mr. Foster of course was to be trustee for the proposed company? A.—Yes.

Q.—Of which you, Mr. Irwin, Mr. McCormick and Mr. Foster were all to be members? A.—Yes.

Q.—That is right? A.—Yes.

Q.—You do not dissent from that? A.—I said yes to the question.

Q.—This recites “whereas the vendor”—that is you—“together with McCormick and Irwin”—now is that word “contemplate” or “contemplated,” because I want to let you— A.—Of course I do not know. I fancy that is “contemplate,” but I do not know. It may be contemplate or contemplated.

Q.—There may be a d after it? A.—It looks as though the “d” was struck out, but I do not know.

Q.—“Whereas the vendor together with McCormick and Irwin contemplate purchasing and desire to negotiate for the properties herein described or referred to”—that of course is the Kamloops limit? A.—Yes.

Q.—“And having applied to the Union Trust Company to join them in such purpose for the purposes of this agreement”—you do not complain of that as a recital at all? A.—I stated what I complain of.

Q.—I have not got to the second recital of which you complain? A.—I have already stated that after the other party that I was negotiating with was unable to carry out that, I went to these people.

Q.—I know? A.—That only bears that out.

Q.—What I was suggesting is that possibly this was—unless you say something to the contrary—an accurate recital; that on the 8th February you and McCormick and Irwin were contemplating the purchase of these particular limits, that would be right would it, or do you dissent from that? A.—I have already stated that I do not dissent. We had already made the application.

Q.—Then the next recital is that in pursuance whereof— A.—Yes.

Q.—I should say that that was in pursuance of a desire that was expressed in the preceding paragraph. Would you dissent from that as a matter of construction of the document? A.—Dissent from which?

Q.—From what I say, in pursuance thereof—that is in pursuance of Mc-

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McCormick and Irwin and you desiring to negotiate for certain properties and applying to the Union Trust Company to join you in such purpose—that in pursuance of all that this agreement has been arrived at? A.—Which agreement?

Q.—The agreement between you and Ryan? A.—Yes, I do dissent from that.

Q.—You say that is not an accurate recital? A.—That is not an accurate recital.

Q.—That is the respect in which you said it was not accurate when I asked you first? A.—Yes.

Q.—Whereas in pursuance thereof an agreement has been entered into between Ryan, and the vendor, dated 26th January, giving you the right or option or privilege in the said agreement set forth in regard to said property. Your comment upon that is that that is not accurate because you did not acquire that right in pursuance of any understanding between yourself, McCormick, Irwin and Foster? A.—Exactly, that is what I say.

Q.—You were of course aware—at least I hope you were aware, from the course of your examination upon the present occasion—that Foster has said that you were absolutely dealing in pursuance of authority—joint authority in respect of what you were doing with Ryan? A.—You stated to Mr. Foster—

Q.—I read it to you? A.—What you read to me did not bear out your statement with respect to that. I simply say that that is not the fact. That is not the fact.

Q.—I won't take up the time to turn to what Mr. Foster has said, but if Mr. Foster said that you say that that was not the fact? A.—Whoever said it I say that is not accurate.

Q.—In other words what you say is that at this time the 8th of February that you were not at all, until the time of signing this agreement, acting in conjunction with McCormick, Irwin and say Foster? A.—What I say is this; that previous

Q.—Or the Union Trust Company? A.—What I say is this; that previous to the making of that agreement, and previous to my executing the agreement with Ryan—that is what I call the agreement of sale on the 26th January—I had made an appli-

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cation to the Union Trust people to to take up this proposition, previous to this I had made an application to them to take up this proposition. I say that the matter was still under consideration and advisement by them, but I say that without any instruction from them, but solely on my own motion and because I was determined that this option should not lapse, and that if the Union Trust Company did not finally consider it in their best interest to take the matter up, I proposed to handle it elsewhere, and on that account I executed the agreement of sale with Mr. Ryan on the 26th January, and not acting by the instructions of any member of the Union Trust Company or of any other person whatsoever, and absolutely without their knowledge I executed the agreement of the 26th January. That is what I say, and that is why I say that is not a correct recital of the fact.

Q.—I am not going at all to find fault with that, but I understand you to say now that at the time you closed the matter with Ryan by accepting the option you were in treaty with the Union Trust Company? A.—Oh yes, I was in treaty with them. I have always contended that.

Q.—And your treaty with them was upon the basis of the option you had from Ryan? A.—Yes.

Q.—The option which you showed to them from Ryan? A.—Yes, which I presented to them from Ryan. That is right.

Q.—And is it unfair at all to anybody to say that you were putting forward the \$225,000 option as the option which you in fact had? A.—No, that is not unfair. That is a fact.

Q.—And you were inviting the Union Trust Company to come into the transaction with you upon the basis of that option? A.—Yes, exactly, absolutely.

Q.—As I understand it now, the only part of this recital that you complain of is just these three words words “in pursuance thereof.” A.—Well I complain of that second recital.

Q.—By reason of the three words? A.—Well I suppose partly by reason of the three words.

Q.—Is there anything else? A.—Practically the whole recital is inaccurate. It says “whereas an agreement has been entered into between Peter Ryan of the City of Toronto

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and the said vendor, giving the said vendor the right or option or privileges” and so on. Now I say that the agreement between Ryan and me on the 26th January was not an option at all. The option was dated on the 24th October. I say that was an actual sale from Ryan to me, and it shows it to be here, because I am spoken of up there as the vendor. That makes this document as a matter of fact contradictory.

Q.—You are making it very clear to me indeed and I am very much obliged to you? A.—That is the view I take of it.

Q.—If we should strike out of this the words “in pursuance thereof” and instead of calling this an option we should call it a contract you would not complain? A.—Well I do not think it.

Q.—You would not complain of that as a recital? A.—I do not think I would complain. My contention is just simply here that the property on the 26th January became mine and that all I had to do was to pay for it. It was purchased on certain conditions and when those conditions were fulfilled the property was mine. It was a conditional purchase.

Q.—Then do you recognize this document at all? Is that with respect to these limits upon the face of it? A.—Well this is not mine.

Q.—Does that seem to be with respect to these limits? A.—Yes, it speaks of Shields camps—yes I dare say that was in connection with these limits.

Q.—You think that was in connection with these limits? A.—Yes sir.

Q.—This is a letter to the Hon. G. E. Foster from McCormick and Irwin and dated 5th January, 1904? A.—Yes.

Q.—Do you happen to know what communications had passed or were passing between Mr. Foster and Messrs. McCormick and Irwin as early as January? A.—No, I do not know.

Q.—You do not know? A.—No.

Q.—Is it likely that things were going on between them that you would not be aware of? A.—That might or might not be the case.

Q.—Is it likely? A.—I did not know anything about that letter.

Q.—Is it likely negotiations were going on between Foster and these gentlemen with reference to this very property and to the inspection

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and examination of it that you would not know? A.—There may have been of course.

Q.—Not independently of you? What do you say to that? A.—Well look; suppose they were out in British Columbia and I was in New Brunswick, I would not be able to know all the negotiations or all the conversations or the letters that might pass between them up there. I would not know it.

Q.—I would not have thought that reasonable to suggest? A.—But the application of the Union Trust Company to take a hand in this was previous to this date of course.

Q.—You have already said so; that is you have said it was previous to the 8th February, but now you say it was previous to the 5th January? A.—I said it was five or six weeks. I could not be accurate. It might have been two months after I first obtained the option, which was on the 24th October.

Q.—But it was before you closed with the option? A.—Yes.

Q.—I think that is a fair way of putting it, but I do not think you ever told me it was five or six weeks before? A.—You mean after.

Q.—Five or six weeks before you really transferred to the Union Trust Company? A.—No, I never said that at all. What I say is this; that on the 24th October I got the option. For some weeks there was negotiations with the other party to whom I have already referred a dozen times; that after those negotiations ceased, then I went to the Union Trust Company and I said that might have been five or six weeks after I obtained the option and might have been longer.

Q.—I thought you said it might have been five or six weeks before you actually closed the arrangement with them? A.—No, I did not say that.

Q.—Five or six weeks before you closed the option? A.—I do not want to be held to it exactly; it might be two months, but as I remember the thing five or six weeks. It might have been only four weeks.

Q.—Somewheres in the months of December and January? A.—It might have been some time in the latter part of November or in the month of December that the thing occurred.

Q.—And at that time you were negotiating with the Union Trust

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Company and your negotiations never ceased from the time they commenced until the time the transfer was actually made to them? A.—No, they were still considering. I have told you that right along.

Q.—This letter of the 5th January which I intend to file as an exhibit is from McCormick and Irwin to Mr. Foster. "Mr. Irwin and myself have just returned from the timber limits on the Spalumcheen River and must confess that we were surprised to find such a large quantity of good timber and such a large portion of it so easily lumbered." Did you know Irwin and McCormick were examining? A.—Yes.

Q.—On behalf of the Union Trust Company? A.—Well they were examining the property.

Q.—On behalf of the Union Trust Company? A.—The Union Trust Company had not employed them; on behalf of Foster.

Q.—Can you suggest why they were reporting to Mr. Foster unless they had made an examination on behalf of the Union Trust Company? A.—I suppose that would be the fact. I do not know any more about it than that I presume from the fact that they did examine it that it was for them or for the Union Trust Company.

Q.—You had introduced the property to Foster? A.—Yes.

Q.—Irwin and McCormick were men who already knew something about the proposition? A.—Yes.

Q.—You were perhaps aware—perhaps you will say you were not, I do not know—you were probably or perhaps aware that the Union Trust Company was asking McCormick and Irwin to say what they had to say about the property? A.—I think so.

Q.—Then you are not at all surprised to find that on the 5th January they were reporting; that does not strike you as being out of the way? A.—Not at all.

Q.—Then if you find that on the 5th January these gentlemen despatched for the purpose of examining the property were reporting, that would not at all strike you as being out of line with your recollection of the circumstances? A.—Not at all.

Q.—"Mr. Irwin and myself have just returned from the timber limits on the Spalumcheen River and must confess we were agreeably sur-

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prised to find such a large quantity of good timber and such a large portion of it so easily lumbered." (Reads). And then there is a list of which the last column of lumber at different points is set out as to prices (Exhibit 677.) I ask you next whether you recognize the handwriting there on that memorandum on the back? A.—No.

Q.—You do not know whose it is? A.—No.

Q.—What do you make it out to be? A.—It is "Om" prices or "Our" prices.

Q.—Which would you think it was by choice of those two? Om prices seems incoherent? A.—Yes, it does not seem to have any sense to it but that is what it looks to be.

Q.—What would you think it was intended for? A.—I do not know.

Q.—If it were sent into you what would you think of it? A.—Well that is a pretty hard question to answer. It looks to me as if that was scored out at the end. It is not really an r. It looks like a tail to the m.

Q.—It looks rather to me that the gentleman who wrote "our" had caught his little finger on it and smudged it a little. You do not think "our prices" is out of the way for a translation of that? A.—It would seem to be more reasonable than the other. I do not know who wrote it.

MR. STEVENSON: The prices in that column are the prices at Enderby.

MR. SHEPLEY: Q.—I think we will not have much difficulty in deciphering that even with the little smudge on it. Then I ask you next whether you were aware that McCormick and Irwin were off making inspection of the property at the date this letter bears? A.—I suppose they were.

Q.—Were you aware that as consequent upon your introduction of the property— A.—I am aware that they did inspect the property.

Q.—Were you then aware that as a consequence of your introducing the property to the Union Trust Company these gentlemen were asked to go and report? A.—Well I do not know that I am aware that they were asked to report. I know that they went and did report and I do not think they would go unless they were

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asked to go. I think that would follow.

Q.—Were you aware then that they were going to examine it? A.—I have no doubt that I was.

Q.—You have no doubt that you were then aware? A.—No, I do not recall it but I have no doubt.

Q.—How long before the 5th January when that letter was written do you think it was that they were instructed to report? A.—I do not know I am sure.

Q.—Early in December? A.—I do not know really. It would have to be some little time before for them to get out there and make the examination and report.

Q.—You see you know the country better than I do. Would it be a month probably? A.—I would not think so.

Q.—How long would you say? A.—Oh well, they could have gone out and examined inside of two weeks.

Q.—That is from the time they were sent? A.—Yes.

Q.—And have written this letter? A.—I think so. The letter is dated on the 5th January.

Q.—We won't waste time over a week or two. Well then, were these gentlemen in your confidence as to the option that you had when they went out there? A.—Did they know about the option?

Q.—Yes? A.—Oh yes, I presume they did. Well yes, they did.

Q.—Were they in communication with you in regard to it? A.—Yes.

Q.—Is it too much to say that they knew perfectly well that you had this option, and that they were being asked to report by reason of the offer of your option to the Union Trust Company? Would that be fair? A.—I think that is fair enough.

Q.—What instructions if any, were there from you to them with regard to this inspection? A.—I do not know that I ever gave any particular instructions.

Q.—Did you give them any general instructions? A.—Either particular or general.

Q.—Do you say you did not? A.—I do not know of giving them any. I do not think I did.

Q.—What I ask you is, do you feel sure you did not? A.—I say I do not think I did. That means that I feel sure that I did not.

Q.—Then they would not be under any obligation whatever to make any

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report to you, because they were not acting for you, but for the Union Trust Company? A.—They would not be under any legal obligation.

Q.—Or any obligation? A.—It depends on how they might feel about it.

Q.—What obligation can you suggest? A.—They might be willing to make a report to me.

Q.—Why? A.—They might be willing to tell me.

Q.—Tell you what? A.—What they found when they went out there.

Q.—Why? A.—On account of the fact that I held the option.

Q.—You did not send them out there? A.—No.

Q.—They were not responsible to you and not your agents in making the examination; that is what you tell me? A.—Certainly they were not.

Q.—Well, did they make a report to you? A.—I knew what—

Q.—Did they make a report to you? A.—Not an express report.

Q.—Do you say they did not? A.—Well, I do not remember whether they made an express report or not, but they told me of course and showed me what they did ascertain out there and from that I made up that statement that I produced.

Q.—What I was asking you was did they make a specific report to you? A.—I do not remember; they may have done so.

Q.—Will you tell me if they did—now assume for a moment that they did—will you tell me how they came to report to you specifically when you were the vendor and when the Union Trust Company had employed them to go and report to the vendee? A.—I do not know as to that, how they came to do that I am sure.

Q.—Can you give me any suggestion about it? A.—Well, here was the fact that I had the option on the property.

Q.—You did not employ them to go out there? A.—Well, I do not think I did.

Q.—You rather know that you did not? A.—I paid them for it afterwards.

Q.—What? A.—I paid Mr. McCormick's expenses.

Q.—Did you? A.—I did, yes.

Q.—We will see about that in a little while. You had not employed them to go out. They were going out for the benefit of the vendee. You were the vendor according to what you are telling us—and I am not doubting that

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for the moment—you were the vendor; they were reporting for the vendee, and can you explain how they came to be reporting to the vendor if they did? A.—They probably reported to me, and they may have reported to me, and I returned—I showed the report or gave the report to the other people. That might be. I am not clear about that. I do not remember.

Q.—What I want to get at is why they reported to you, what you can suggest as a reason for their reporting to you unless you had something to do with their authority to make the examination, unless they were under some obligation to report to you? A.—What I said was this, that I could not recall giving them any instructions to go out. It might have been that I did, you know, but I do not think that I did, but it may be that I did.

Q.—Why should you instruct them? We have here a clear indication in the last letter that they were reporting to Mr. Foster? A.—I certainly did correspond with him when we were out there. It may have been joint instructions. It may have been they were instructed jointly and that they reported to me as well as carrying on a communication with him. I do not know as to that. The facts speak for themselves if they did report to me.

Q.—You have some memory about it or you have not? A.—I told you this afternoon I thought that I made up a statement as to the limits and their values and so forth, from what I had received from them, and I suppose that was the report you are referring to, so that there must have been a report.

Q.—Unfortunately there was no date to that, so that I cannot identify it with the document I have in my hand now which has a date. Won't you go so far as to tell me you did give them instructions before they went out to report? A.—I do not remember.

Q.—Will you say you did or did not? A.—I say I do not remember. I do not know whether I did or not. That is as far as I will go.

Q.—You cannot of course say that you did not? A.—I cannot say that I did not.

Q.—You have already told me that you knew they were going out for the Trust Company? A.—They were going out to examine the property.

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Q.—For the Trust Company? A.—I suppose for the Trust Company, because we were negotiating with the Trust Company and it may have been—

Q.—Is there any doubt about that? A.—I do not know as to that.

Q.—Don't you know, Mr. Fowler, that upon your statements and upon the report of Mr. McCormick and Irwin the Trust Company bought? Don't you know that that is so? A.—Yes.

Q.—Is there any doubt about that? A.—No.

Q.—You think that is so? A.—Yes.

Q.—If they were buying upon the report of Messrs. McCormick and Irwin they no doubt had done what the documents indicate; that is they had gone out there for the purposes of the Trust Company? A.—That is the inference that I would think not being able to recall the exact facts at the present time.

Q.—Now I want to take your own position just as you have told us it was. You were entirely at arms length with the Trust Company? A.—Oh no, I never said that.

Q.—You must have been? A.—Excuse me I never said so.

Q.—Do you say you were not? A.—I never said that. Why I had made an application to the Trust Company to take up this property, and I would not be at arms length.

Q.—If you say you were not at arms length that is enough. You were not in a position to deal with them without making disclosures; that is what arms length means? A.—As to what?

Q.—As to anything or everything? A.—I was in the position of a vendor. That is the position I claim I was in. I do not think you would call that arms length if you go to a man and ask him to purchase a property you have control of.

Q.—Then are you not at arms length when you could deal with them without regard to any equities at all? A.—I could deal with the Union Trust Company without any equities at all.

Q.—Then you were at arms length? A.—You can call it arms length or foots length or anything else.

Q.—If you were at arms length as indicating what we are both agreed upon, you could deal with them in any way you chose, make any terms or

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profits you chose? A.—That is my contention, whether I am right or not. That is my understanding.

Q.—If you were in that position do you think it reconcilable that you should give instructions to the people they were sending out to value the property? Would you think it consistent with that position? A.—Well that might be or might not. I do not know what you mean by instructions. It would not be inconsistent with that for me to say to these people "You go and examine that property and make an examination of it and see what it is worth and find out as to its value and that sort of thing," There is nothing wrong about that. But if I had asked those people to conceal the knowledge they had out there with respect to the property, that would be another matter. Then I would be interfering with their servants or agents.

Q.—You are putting it very admirably and I am obliged to you. You have done it better than I could, but you do not think it would have been inconsistent for you simply to have asked them when they were acting for the Trust Company to have contemporaneously reported to you, you do not think that would be inconsistent? A.—No, why should it be? Supposing they made a report to both of us what wrong would there be in that.

Q.—That is the document. I was asking you about, and I would like you to look at it, and see whether you got that from McCormick and Irwin while they were in the midst of this reporting for the Union Trust Company? A.—Well that is a report that appears to be addressed to me.

Q.—Did you get it? A.—I suppose I did.

Q.—You suppose you got this? A.—Yes.

Q.—This is a report by McCormick and Irwin? A.—Yes, I suppose it is the same report I got and handed to Mr. Foster.

Q.—Can you say why they reported to you rather than Mr. Foster? A.—I am not able to say now.

Q.—You perhaps would not mind it going down upon the notes that the report to you is a much more elaborate report than the report made to Mr. Foster which we have just filed? A.—That letter?

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Q.—Yes? A.—No. The two speak for themselves. This is certainly much more in detail.

Q.—The one to you is much more in detail? A.—Yes. (Exhibit 698.)

Q.—You said a little while ago that you thought you paid for the services of these gentlemen in making that report. Do you still think so? A.—Yes.

Q.—When and how? A.—I gave Mr. McCormick, as I understood it, \$1,000 for that purpose.

Q.—You gave Mr. McCormick \$1,000— A.—Afterwards.

Q.—Afterwards you gave Mr. McCormick \$1,000? A.—Yes.

Q.—But I was speaking now about the expenses of the trip? A.—At that time?

Q.—Yes? A.—No, I did not pay anything at all.

Q.—Who did? A.—I do not know. I suppose they paid for it out of their own pocket as far as I recall now. I do not remember.

Q.—I happen to have here an account in respect of this amounting to \$299.50 for these expenses, and I happen to have the cheque for the payment of the balance with Mr. Foster's directions to make the cheque out and the cheque is the cheque of the Kamloops Lumber Company? A.—Well, that may be for expenses.

Q.—Well, if you paid \$1,000 after it was not in respect of these expenses? A.—It was in respect of this examination.

Q.—Under what obligation were you to pay them anything in respect of this examination, pray? They were sent out by the vendees. What had you to do with that? A.—I paid it I know. I paid Mr. McCormick \$1,000.

Q.—I am coming to that in another question. But you had not sent them out as you tell me now. The Union Trust Company had? A.—You are not putting it quite fairly. I said I did not remember having done so, and I said I did not think I had done so.

Q.—And I think you agreed with me, too, that if they were going out to make an independent report for the vendees you would not have considered it proper that you should interfere by giving them any instructions whatever. A.—I did not say so.

Q.—I think you agreed with me? A.—Excuse me, I did not say that at

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all. Do not say what I have not said.

Q.—I do not want to. A.—As a matter of fact what I said was this; that if these people were going out to make an examination probably it would not be unfair on my part nor improper on my part to request them to make an examination.

Q.—For you? A.—To ask them to make a careful examination at the same time, because that report I could use supposing the Union Trust Company did not come to terms and did not take over the property then I could use that report for the sale of the property to some one else.

Q.—What I said you had agreed with me about was this; that it would not have been right for you, the vendor to give them any direction or instructions with regard to their report that they were to make to the Union Trust Company upon the Union Trust Company's instructions. I think you agreed with me upon that, and you do now? A.—I said it would not be proper for me to instruct them to slight the property, or to make a wrongful report or anything of that sort.

Q.—Or to give them instructions, or to say "I want you to do this for me and not for the Union Trust Company." That would not be fair and you would not do it? A.—Not to say for them, not to do anything for the Union Trust Company, but to say for them to make a report to me, there would be nothing improper.

Q.—"But to make a report for me." You would not have thought that was fair? A.—Why?

Q.—To make a report from the standpoint of the vendee—that would not be fair? A.—If they made an accurate report, what difference.

Q.—I am sure you appreciate what I mean. They were sent out to make a report from the standpoint of the vendee who wanted to get to rock bottom? A.—Yes, but would not the vendor want to know what his property was?

Q.—The vendor was trying to sell. Now, supposing the vendor says, "Now make a report from my standpoint." That would not be fair? A.—No, not to make a report that would color the property.

Q.—From the standpoint of the vendor as between him and the vendee? A.—But the vendor wants to know

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just as well as the vendee what the value of the property is, does he not?

Q.—Certainly. And I think you quite understand me and have quite agreed with me? A.—I quite understand you, but it does not follow I agree with you.

Q.—I think you will, and I think you did. If there are two standpoints, the standpoint of the vendee who wants to get the property cheap and the standpoint of the vendor who wants to get all he can for it, if the vendee sends somebody to make a report is it proper in your view that the vendor should say, "Now, make a report from the standpoint of the vendor rather than from the standpoint of the vendee." That would not be fair? A.—The standpoint should be the same. Why should there be any difference between the standpoint of the vendee and the vendor.

Q.—Then that would be fair? A.—Why should there be any difference?

Q.—Do you say that would be fair? A.—I say there should not be any difference between the two; therefore if I said to make a report for me it would be perfectly fair.

Q.—I did not say for you, but from your standpoint? A.—Yes, from my standpoint.

Q.—Then you think that would be fair? A.—Yes, because both standpoints should be exactly the same. What they wanted to get at was the fact.

Q.—Look at that writing and see if you recognize it? A.—No, I do not recognize that writing. You mean this at the bottom. This is Mr. Foster's.

Q.—No? A.—You mean the body of it?

Q.—Yes? A.—No, I do not know.

Q.—Do you know Mr. Irwin's handwriting? A.—I think I do.

Q.—There is his handwriting on the back of that cheque, is it the same writing as in that account? A.—No.

Q.—You say it is not the same? A.—No, that is plain to anybody. That is just the actual cash paid out.

Q.—List of monies paid out? A.—Yes.

Q.—May I ask you next whether in connection with the \$1,000 which you subsequently paid to Irwin, you had arranged beforehand with him, before he went out there, that you would pay him anything? A.—No, it is not Irwin at all.

Q.—McCormick? A.—No, I had not arranged beforehand to pay him anything.

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Q.—There was no arrangement beforehand by which you were to pay him any money at all? A.—No, not before he went out.

Q.—And there was no arrangement with the other man? A.—No.

Q.—No arrangement with either of them? A.—No.

Q.—I put in these two documents, one of which is an account for \$229.50 and the other of which is a cheque for the balance, after a credit of \$200 paid, by cheque of \$99.50, the cheque of the Kamloops Lumber Company, payable to William Irwin and Mr. Foster's memorandum at the bottom you have said was in his writing? A.—Yes.

Q.—"Send cheque \$99.50 and enclose receipt for \$299.50 to be signed and returned, G.W.F." Would you tell me whether in connection with this report which is now Exhibit 678, the report made to you, would you tell me whose handwriting the heading there is in? A.—That looks like my own.

Q.—Do you remember the presentation of this report to you? A.—No, I do not.

Q.—You do not remember? A.—No.

Q.—Do you remember what you did with it when you got it? A.—No.

Q.—Do you remember to whom you gave it? A.—No.

Q.—Then you are not able to say whether you passed it on to the Union Trust Company or not? A.—I do not know, I presume I did, but I do not know.

Q.—Do you happen to remember, without reading it over now, that it was a report which was entirely satisfactory to you as the vendor? A.—Well, I remember the report was very satisfactory.

Q.—Don't you think the probability is that you did pass it on? A.—I may have, I dare say I did. In fact I have not any doubt about it.

Q.—Now this was the document which passed between you and Peter Ryan when you took up the first option, is it not? Or it may be a copy. I should not say it is the original, but that is the document? A.—You have the original, have you not?

Q.—It may be in? A.—This would seem to be a copy of it.

Q.—Now then, there is no doubt that that document was the basis, or the original of that document, of \$225,000, was the basis of the bargaining between you and the Union

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Trust Company? A.—Yes no doubt about that.

Q.—Will you say you ever showed to the Union Trust Company the option which preceded that, the option of October or November? A.—Oh, yes, I think I did.

Q.—Do you say so with certainty? A.—I do not say with certainty, but I think I did.

Q.—I am not going to trouble you by going over all that again, because I think I have already asked you what took place between you and the Company, and whether you communicated the fact that you had the smaller figure to pay. Now, you told me when I had the pleasure last of talking to you about this, that you had received from Mr. Ryan a considerable portion of the \$55,000. Have you ascertained since, so that you could speak of that accurately, as to what you did receive? A.—No.

Q.—Why not? A.—Well, because there were certain dealings between Mr. Ryan and myself which rendered it impossible for me to speak with accuracy, and then in the second place I did not feel that this was part of the—

Q.—You did not feel that way, but you were good enough to say at the end that you would get the information? A.—I beg your pardon, I did not say anything of the sort.

Q.—I won't say that you did, if you say you did not. The notes will show exactly what took place? A.—You have the cheques there.

Q.—You thought that two cheques, each of \$1,000, were probably not referable to that \$55,000? A.—Yes, I thought so at the time.

Q.—Have you satisfied yourself about that yet? A.—No, I have not.

Q.—Have you not taken any pains to ascertain about that? A.—Yes, I have taken pains to look that up. At that time I did not think they did. I am less doubtful about it now. They may have.

Q.—Those two \$1,000 cheques may have been part of the \$55,000? A.—Yes, there were a number of cheques that passed between Ryan and myself outside this matter, and I thought it was possible these two cheques did not belong to it, but I rather think they do. I am not sure of it.

Q.—You rather think they do? A.—I am inclined to think so.

Q.—You have told me to-day you made some credits to him with respect to that by reason of the money you

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got out of the Shuswap Company? A.—Yes.

Q.—Can you tell me how much credit you gave in respect of that? A.—Well, I think it would be \$4,000.

Q.—You think so, but you are not quite sure in respect of that figure? A.—I think that is the figure.

Q.—Cannot you tell me it all, because if you cannot tell me I do not know how you are ever going to settle with Peter Ryan, because you kept no books or cheques, or anything of the sort. How much does Peter Ryan owe you yet out of that \$55,000? A.—I am not able to tell you yet.

Q.—Can you tell me approximately? A.—Oh well, I should think \$5,000 or \$6,000.

Q.—That is after giving him all credits? A.—Yes.

Q.—\$5,000 or \$6,000? A.—Yes.

Q.—Was there any arrangement between you and him about that? A.—No.

Q.—Do you hold any security? A.—No, it is still open.

Q.—But do you hold any security? A.—As to that?

Q.—Yes? A.—Well, Mr. Ryan claims I do not hold any security.

Q.—What do you claim? A.—I claim that I do.

Q.—You claim that you have security for that? A.—Yes.

Q.—What is the nature of the security? A.—A limit.

Q.—What is the limit? A.—The limit known as the Albert Canyon Limit.

Q.—What is the number of it? A.—I do not know.

Q.—Could you tell if you had the documents before you? A.—Yes.

Q.—Is it in this document? A.—No, it is not any of those limits.

JUDGE MacTAVISH: Q.—That was the first option? A.—Yes, I think that was in that first option.

MR. SHEPLEY: Q.—How did he secure you upon that limit? How did he give you the security as you claim? He denies it of course? A.—Well, he transferred that limit to me. He did not say anything to me at the time when he made the transfer, and so I claimed to hold the limit as security for this balance.

Q.—Is it in that document? A.—Yes, it is numbers 225, 235 and 271.

Q.—Those are the three limits as to which he made an assignment to you to secure you in respect of the balance of the \$55,000? A.—As to

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which he made an assignment to me, you say.

Q.—You claim that? A.—He made an assignment—I did not know anything about him making the assignment to me at all. He made an assignment and he afterwards notified me that he had made the assignment. That is all he said. This notification did not say what it was for or anything of the kind. Then he afterwards asked me to re-assign, and I stated that I would re-assign on his settling the balance of the \$55,000, and that is the way it stands.

Q.—Did he not ever tell you why he assigned to you? A.—He never told me why he assigned. I had a suspicion why but he never told me.

Q.—What did you think was the reason? A.—Oh well, that is another matter.

Q.—You might tell me? A.—I do not think I have a right to say that.

Q.—Would you rather not? A.—I prefer not.

Q.—You say for some reason as to which you only had a suspicion, and which he never communicated to you, he made an assignment to you of these very limits? A.—Yes. Of course there were things occurred which gave me a suspicion why it was.

Q.—Tell me those things? A.—Oh no.

Q.—Would you really rather not? A.—I would really rather not, because it affects some person else besides myself.

Q.—Besides yourself and himself? A.—Yes.

Q.—I have a great deal of respect for both of you, but I would rather respect the secrets of anybody else because you have both been heard? A.—Those are the facts. He simply transferred to me those limits, without telling me he was going to do it before he did it, and afterwards he told me he had transferred those limits to me, and as I say I had a suspicion.

Q.—By reason of certain circumstances which had occurred? A.—Yes.

Q.—And then when he demanded the limits back you said "You settle up and you will get the limit?" A.—Yes.

Q.—If you want equity do equity? A.—Yes.

Q.—Give me the balance of my \$55,000 and I will give you back your limit? A.—Exactly.

Q.—I won't trouble you about that more than to ask you this: Did the reason why he transferred the limit to you in your suspicion have any

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connection with his giving you security? A.—Oh no, no.

Q.—You do not think they were really transferred to you as security in the first instance? A.—I do not think he intended them as security.

Q.—But you thought you would hold them as security? A.—Yes, I did, I was holding them as security. That is straight fact.

MR. KENT: Q.—You went on the principle that what we have we hold? A.—Yes.

Q.—Being a good Britisher? A.—Yes.

MR. SHEPLEY: Q.—That is the situation between you now that he is asking you to give up the limit and you are saying, "Give me my \$5,000." You assent to that? A.—Yes. I stated that a little while ago and I did not think it was necessary to state it again.

Q.—Then you were good enough to say when we separated last, subject of course to your saying you do not remember you were good enough to say that you would prepare a statement for me of the purposes to which you had devoted the \$55,000? A.—You misunderstood me. I had not consented to answer. I do not know what your notes are, but this is the fact, I had not consented to answer. You had asked me a certain question. Your Honours had ruled with respect to the matter, and then you said to me, "Now, we will let the examination rest here and you had better make a memo. of some things I will want you to answer with respect to." I made a memorandum but I did not say that I would answer.

Q.—I am very anxious that you should not feel that I am unduly pressing you with regard to anything you promised to do, because that would not be fair and I do not want to do it, but I really thought you said so. This is what was stated, "I should not expect you to be able to tell me offhand, but you can prepare the statement for us." (Reads from notes of evidence.) You did not intend to assent at all? A.—No. I made a memorandum.

MR. KENT: He said he would make a memorandum.

WITNESS: Yes, and I took it down here.

MR. SHEPLEY: Q.—I would not at all desire to twist this so as to make you seem to have made a promise you did not intend to make.

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A.—That is it exactly. Then you went on further and asked about the cheques and I said I would not say as to that.

Q.—Then Mr. Foster has already told us that certain monies were paid to him, and the bank book shows that a certain cheque came out of this very \$55,000? A.—Yes.

Q.—And he has said that besides that particular cheque there were other monies, making in all some sum which he thinks may have amounted, I think he says, to \$7,500 or thereabouts? A.—That is substantially correct.

JUDGE MAC TAVISH: He said not more than \$7,000.

WITNESS: That is substantially correct.

MR. SHEPLEY: Q.—The books of the bank show that some of that money went to Irwin and some to McCormick. Will you tell me how much went to Irwin and how much went to McCormick? A.—Well, you see, Mr. Shepley, the point I take on that is just this. Now in the first place, according to my contention, I was not an agent of the company.

Q.—I know? A.—And, therefore, that being the case, I was entitled to get the money. That is my contention.

Q.—I understand that. A.—And if I am correct in my contention you have no right to enquire into that, absolutely none.

Q.—You see already— A.—Already a lot of evidence has been given with respect to it. I admit that.

Q.—And it is not for me to say, but perhaps if you will tell us the enquiry will lose very much of its point. How much did you give to Irwin, can you tell us? A.—You say that in a very coaxing way.

Q.—That is my business, to coax and persuade, and to get the information with as little irritation as possible, and that is what I try to do. You did give Irwin a sum of money because the bank books show it? A.—Yes.

Q.—How much altogether? A.—I do not think you should ask me that. I tell you frankly I do not think it is pertinent to the enquiry and I do not think you should ask me. I do not want to claim any privilege to which I am entitled, because we have got along very pleasantly, and I prefer we should get along that way till the end. I should prefer not being asked

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that. Why not let it go at what the bank books show?

Q.—I will let it go at that if you say you did not give him any more than what the bank book shows? A.

—Mr. Tilley appears to object to that.

Q.—No, he is telling me how I am giving the case away? A.—He does not believe in compromise.

Q.—What would you say to that? A.—Yes, I will answer that. I did not give him any more than what the bank books show.

Q.—I will take that answer and be entirely satisfied with it, because we already know what that is, and you will probably say "thank you" for nothing. Then with respect to the other gentleman, Mr. McCormick, let us put them on the same footing; how much did you give him? A.—I gave Mr. McCormick as out of this matter, as belonging to this matter—we had other dealings, but as belonging to this matter \$1,000, which I intended as compensation for his cruising—

Q.—Each of these gentlemen got \$1,000 out of this particular matter? A.—Yes.

Q.—Then McCormick got \$1,000? A.—Yes.

Q.—Irwin got what the books show? A.—Got what the books show.

Q.—Will you tell me how much? A.—No, no.

Q.—You won't tell me? A.—No, no. You said you would not ask that. You said you were going to be satisfied. You must not take the advice of juniors. It is not always good advice. These young fellows are impetuous and they want the seniors to get into trouble and go back on their word.

Q.—Each of them got \$1,000 in respect of this matter. Will you say that? A.—No, I have said all I am going to say with respect to it, and all you should ask me.

Q.—And you would hold me to a mistake when I did not hold you to one? A.—No, but I would hold you to your word.

Q.—Even if it was given mistakenly? A.—How mistakenly?

Q.—Because I was mixing Irwin with McCormick? A.—No, I do not think you were.

Q.—However we will not argue about that. You would rather not tell me more about Irwin? A.—No.

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Q.—You did compensate Mr. Irwin, you did compensate Mr. McCormick. You did give Mr. McCormick \$1,000 and you gave Mr. Irwin what the bank books show? A.—Exactly.

Q.—Your compensation to them was why? Put it again so that we may have it clear. Because they have had some trouble in the matter? A.—Exactly.

Q.—About the Great West lands there was a question I want to ask you. Mr. Griffin has told us that in respect of certain lands included in your purchase from the Canadian Pacific no contracts had been made, amounting to 6,500 acres. You agree to that? A.—I think that is correct. I agree with Mr. Griffin's evidence with respect to the matter. I followed it. I think his evidence is about correct.

Q.—In respect to these 6,500 acres Mr. Griffin says there is a balance of money to the credit of you and your associates in suspense amounting to some \$3,500 odd which has been saved after adjusting all the other payments. Do you agree to that? A.—I do not know as to that. I do not know how their books stand. I know we paid a certain amount.

Q.—You got that back? A.—Well, but this money that stands there to the credit was not the money from any purchaser from us.

Q.—Not from the Union Trust Company? A.—No, sir.

Q.—Did you not get back the whole \$60,000 you paid? A.—Yes, but we paid monies outside of the \$60,000 on account of the land purchased. The Great West Land Company have got land for every dollar they invested—every cent. That was all adjusted between them and the C.P.R.

Q.—So I understood from Mr. Foster? A.—So that the \$3,500—

Q.—If you tell me that in addition to the \$60,000 you and your associates have been paying over money? A.—Yes, we have.

Q.—Have you been paying any other moneys other than for the lands you got upon which there are contracts? A.—Yes.

Q.—Outside of this 6,500 acres? A.—Yes.

Q.—Not specifically upon this? A.—I do not know whether you call it specifically upon this. We paid this much money, money that is lying there to our credit, which I supposed was

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applied on those lands until I heard Mr. Griffin say to the contrary.

Q.—He says it is in suspense? A.—I did not know until I heard him say that. That money was paid by us, not paid by the Great West Land Company or the Bellhouse people to whom we sold.

Q.—And not paid by the Great West Land Company? A.—No.

Q.—Or the Union Trust Company? A.—No.

Q.—Not paid by any person else but yourselves? A.—No.

Q.—And that means payment outside of the \$60,000? A.—Yes, and therefore it is moneys that the Union Trust Company, or the Great West Land Company, or Bellhouse, representing the English syndicate, have nothing whatever to do with.

Q.—Just another question with regard to that. You heard what Mr. Griffin said that the time for your taking care of those lands has gone by? A.—Yes.

Q.—And I suppose you do not intend to let the lands go? A.—Do you suppose that is a proper question to ask me.

Q.—Yes? A.—Tell me why.

Q.—Because it bears on the very next question I am going to ask you. Do you intend— A.—Why should I answer what I intend to do with respect to property absolutely outside—

Q.—I might have asked you whether you intend to give that to the Great West Land Company. You do not intend to do that? A.—Well, I should hope not. I think we gave them enough.

Q.—I won't press the question if you object to it, I do not think it is very important. Would you mind telling me why it so happens that the lands which are included in the 6,500 acres which nobody has got up till now, happen to be located here and there right along the line of the railway according to the map that is in the land department? A.—Well, you have already questioned me with respect to that matter and I told you—

Q.—You did not tell me that. I had not seen the map then? A.—That is the very thing I did tell you. Now you forget. You asked me how these compared with respect to quality with the other lands first, and I said they were about the same in quality. Then I volunteered the statement—you did not even ask me—I volunteered the statement that they probably lay closer

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to the railway than some of the other land. Now that is what I said.

Q.—And as a matter of fact they do lie right along the line of the railway? A.—Well no, I would not say that. Some of them may. Some of these other lands are further away. As far as the quality is concerned I do not know anything about it.

Q.—I do not care anything about it? A.—Just a moment to make that clear to you; while you had certain information which was open to everybody else, just as Mr. Griffin has said here, it was open to everybody else, we had certain information with respect to the route, yet the railway when it was run did not necessarily follow that exact route. It might be one or two or three or four miles away from there, and therefore while we may have kept those lands, thinking that they were going to be very close, yet they might not in the end prove to be as close as we expected, or they might prove to be closer, because we were not aware. We had not the accurate road as it would be finally laid, as your Honours will understand.

Q.—Have you seen at all the map which Mr. Griffin has showing the location of the 6,500 acres? A.—No.

Q.—You have never seen it? A.—No, not the map he exhibited here.

Q.—He showed me where the 6,500 acres were? A.—I did not see that. I did not know he was pointing that out or I would have come up and looked at it.

Q.—He did not point it out yesterday, because I thought you would tell me about that, and I think you have probably told me as much as I want to know about that. Just one other question then I think I can let you go. I am not quite sure that I asked you when you were examined before whether you had had any conference or talk with the Great West Land Company or Union Trust Company people with respect to your holding back these lands since the fact that you did hold them back became public? A.—No, none whatever.

Q.—You did not have any at all? A.—No.

Q.—Now, without at all going back on my word to you I want to see whether the cheques which are marked Irwin in this bank book are cheques which refer to this. There is a cheque for \$1,000 of the 12th February? A.—Let me look it over and I will see.

Q.—I am not going to ask you about cheques which have no names put opposite them by the bank? A.—Well,

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there are cheques there that have not anything to do with this—oh no, wait; I was taking them as ditto; where they carry the number they carry down the list of figures and that deceived me

Q.—Have those that are marked Irwin reference to this matter? A.—Yes.

Q.—That will help us very much. Still I shall not break my promise to you, but don't you think it would be just as convenient that you should tell us the gross amount so as not to bring Irwin here, because I am not under any promise to him? A.—Why cannot you add those?

Q.—If you will negotiate with me and let me add them up and ask if that is all? A.—I thought that was what we had said. All you have to do is to add them up and you will get at the total. Everything as far as Irwin was concerned was paid by cheque and you will find them there.

Q.—I find here \$12,000. Is that all? You said I could ask you if that was all? A.—I think that about covers it as far as I can remember.

Q.—And that was all referable to this \$55,000? A.—Yes.

Q.—Then that is all Mr. Fowler?

MR. SHEPLEY: Those exhibits which are not duplicates I will have copies made of and return the original to you and those that are duplicates I will return to you, but you will not ask me to do that to-night?

WITNESS: No.

ELLIOTT G. STEVENSON, recalled. Examined by MR. TILLEY.

Q.—Mr. Wilson, in his evidence, related some conversations that he said took place with you, in which he made you aware of transactions he was entering into with Mr. DuVernet. Did you hear his evidence or read it? A.—I was not present, but I was informed of the substance of it.

Q.—Are you sufficiently acquainted with it to be able to make a statement of your version of the matter without my reminding you particularly what he said? A.—My understanding is that Wilson stated that the time the transaction was closed with Mr. DuVernet, or about the time it was being closed, he came to me and asked me if I had any objection to his joining Mr. DuVernet as a purchaser. My recollection is not in accord with that at all. My recollection is that the first time I ever heard of his thinking of joining Mr.

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DuVernet was shortly after Mr. DuVernet went to Europe, which was in the neighbourhood of two months later. He then said to me something about taking a half interest in Mr. DuVernet's third interest and asked me if I had any objection to it. I told him I had no objection to it. He later told me that he had acquired a half interest in Mr. DuVernet's third interest. That is all I know about it. At the time the transaction occurred I knew of nobody in the transaction except Mr. DuVernet and did not know that Mr. Wilson was concerned in the transaction and knew nothing about the \$25,000.

Q.—Then is it right to say that from the conversation you had with Mr. Wilson at that time that you gathered that he was then entering into a transaction with Mr. DuVernet? A.—About two months after the transaction had been closed.

Q.—And that up to that date you gathered from what he said to you that he was not in any arrangement with Mr. DuVernet regarding his share of the Union Trust Company's stock? A.—My understanding at that time was that he was representing us.

Q.—Representing you entirely? A.—Yes.

Q.—And that his negotiation with Mr. DuVernet was an entirely subsequent matter, clear of the original transaction? A.—Entirely so. That is my recollection of the matter.

Q.—Then did he disclose to you any commission that he was receiving? A.—He did not at that time.

Q.—Was there anything said at that time or at any other time about the commission? A.—On the day that Mr. Wilson returned from the west, while this investigation was progressing, I was informed by Mr. McWhinney that Mr. Wilson would return on the afternoon train, and I told Mr. McWhinney that I would like to see Mr. Wilson upon his arrival. Mr. McWhinney telephoned me a little later on that Mr. Wilson was down in Mr. DuVernet's office. That was perhaps half an hour after the train was due to arrive. I got down there and found Mr. Wilson and Mr. McWhinney together. I then told him in substance what I have been asked about with reference to the commission, and what I have said in my testimony, that he had represented as in the matter, that he had no right to

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take any compensation from any one but us, and that if he had received any compensation from the purchaser that we should insist upon its being accounted for, that he, from my view, had no right whatever to deal with the purchaser in any such way. He said to me, "You are quite right, Mr. Stevenson, but I did not do that." Upon that assurance I left the matter, that he quite assented to the proposition that he was representing us, and that he had no right to take any compensation from the other side of the transaction.

Q.—And you understood that he had not done so? A.—He told me at that time that he had not.

Q.—At what date was that about? A.—Well, it was just a day or two before Mr. Wilson was called as a witness.

Q.—That was while the investigation was on? A.—He went west about the time the Foresters was taken up, on the manufacturers' trip to the west, and was called back by a telegram. It was upon the day that he returned from Winnipeg to appear before the commission.

Q.—The option that was given by the Foresters on the Union Trust Company's stock was given to Mr. Wilson? A.—Mr. Wilson prepared the paper, it was left blank and he asked me if I had—

Q.—When you say it was left blank you mean the name of the person to whom the option was addressed—it was a blank? A.—Yes. He said, "Have you any objection to Mr. DuVernet's name being inserted in this and having this option?" I said, "I do not know Mr. DuVernet at all and I do object to this matter being hawked about. If it is going to be a sale I am entirely satisfied, but I do object to Mr. DuVernet, or somebody else I do not know, having this option to hawk about." He said, "Perhaps my name had better be inserted, and they will see from that that I have authority to deal with the matter," and upon that suggestion Mr. Wilson's name was inserted in that blank space, and simply to protect us from having the option hawked about.

Q.—You gathered from what was said to you at the time that Mr. DuVernet was then considering the transaction or pledged to the transaction one side or the other? A.—I

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did not know whether Mr. DuVernet was going to deal for himself or not. I assumed he was not, and if he had not made his arrangement definitely I did not want him to take it out and offer it around. If he was prepared to close it, I was quite prepared to close it on the basis of the sale that was finally made.

Q.—What knowledge have you, if any, as to any commission paid to or claimed by Mr. Wilson in connection with any sale of lands belonging to the Union Trust Company, or any of what we might call subsidiary companies? If you have no knowledge of it I will take that statement, but if you have any knowledge, I would like to know what it is? A.—It is pretty difficult to say whether what I have is knowledge or not. I understand, if you have no objection to stating what I understand—

Q.—That is all we can ask? A.—I understand from parties who have been concerned in the matter—I have never been a director of the Great West Land Company and have not had access to their records—but a sale was made to a Mr. Leitch of 100,000 acres of the Great West Lands, that Mr. Wilson charged a commission of 25 cents an acre, or \$25,000.

Q.—He acting for the vendors on the sale of the land, or affecting the sale for the vendors? A.—He was one of the officers of the Great West Land Company. Of course I know nothing personally about the negotiations.

Q.—Do you know whether that has been paid or not? A.—I understand it has not been paid.

Q.—Do you know whether he was paid any commission by the purchasers of the lands? A.—I understand not. Mr. Leitch is in the room here. He told me that he paid Mr. Wilson for his services \$800.

Q.—That would be in connection with the same transaction as he was claiming the \$25,000 from the Great West Land Company? A.—That was my understanding, only what I understood from one of the directors of the company. He told me he had made a claim of that kind.

Q.—Have you given any further consideration to the question of the meetings that were held when certain bonused stocks were directed to be returned to the syndicate composed of Foster, Wilson and McGillivray? A.—I have read very carefully all that has been said on that subject with a

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(Mr. Elliott G. Stevenson, Recalled.)

view of refreshing my recollection. I have recalled the circumstances of that day and I can only say that after going all over it I am confirmed in the view that I originally had, that I never understood that any stock was being turned over for the mortgage or on account of that transaction except the stock representing the cash advances, and that the bonus stock was never included or considered or thought of. My recollection in that respect is just in accord with Colonel Davidson's and Mr. Ross's.

Q.—Would you say as to the possibility of any such resolution being made by you formally or informally at any meeting? A.—It is absolutely impossible. If I had written any such resolution as is said I certainly would have recalled it, because I would have had the matter in mind.

Q.—And you say that no such a resolution was prepared by you? A.—I say that no such a resolution was prepared or offered by me.

Q.—What do you say as to the custom of signing the book by the directors when the meeting would commence? A.—I suppose the invariable custom was to sign the attendance book.

Q.—You say you supposed that. Is that your recollection of your habit when attending meetings? A.—We have commented upon it a number of times, that Colonel Davidson prides himself on attending every meeting substantially and almost the first thing that is done when we gather in the board room is to pass out the book for signature.

Q.—Are the books on the table ready for signature? A.—Yes.

Q.—That is attended to before the meeting by some person in the Trust Company offices, and as you sit down the book is passed round? A.—Yes. Of course occasionally some one may come in late.

Q.—And overlook it? A.—Yes, but of course I could not swear it never was omitted, but I can recall no instance in which it was not done at any meeting I attended.

Q.—You have heard the evidence given by Mr. Fowler as to his position and his connection with the transactions of the Union Trust Company and the Kamloops Company. Is there anything that you have to say as to your view of the matter in addition to what you said in your evidence? A.—I can only say in that regard what I

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say about the other matter; that as these matters have been gone over I have not only reflected upon it, but endeavored to refresh my recollection, and my recollection as I gave it before I think is more than confirmed by the documents themselves. For instance in the agreement of the 8th February it says, "Whereas the vendor" (Reads) "and have applied to the Union Trust Company of Toronto to join them in such purchase." I understood when we were invited to join them in that purchase that we were not buying from him. If we were joining with him we were with him purchasing this property from Peter Ryan; and in the document attached to it there is a distinct and definite representation that the price of this property is \$225,000, "witnesseth that the vendor hereby sells to the purchaser at and for the price of \$225,000." My understanding is that that is a distinct representation on the part of Mr. Fowler that that was the purchase price. Now in the document that he has just referred to, the assignment of the rights under this agreement dated December 28th, the concluding clause in that paper says, "now, therefore, the said vendor"—which is Mr. Fowler—"does hereby grant, assign, set over, etc., all the right, title, and interest, etc., in or under or in pursuance of the said agreement or indenture dated 26th January, 1904, the said vendee paying the consideration therefor." Mr. Fowler said over his signature that we were paying a consideration therefor, and he said that consideration was \$225,000. That is exactly what we understood we were doing. He represented that was the consideration, and he stated here that we were to pay that consideration. We were not to pay Mr. Fowler \$55,000 or any other sum as profits, and we were not dealing with him as a purchaser at all, and further than that, the report made to Mr. Fowler of the men that were going to examine this property for us demonstrate to my mind that the report was made to him for us because they knew he was acting with us.

Q.—That is what you read out of the documents. I suppose the documents are there? A.—That is why I say I am confirmed in the view as first stated, and every document shows it. Take the document of June 18th, "whereas the said company has advanced money from time to time for the purchase of"—

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Q.—That is the idea that permeates all the literature that was prepared at the time? A.—Yes, and my memory in that regard is confirmed by the examination of these documents that I had not gone over at the time I gave my previous testimony.

Q.—What I was particularly asking was whether there had occurred to you since any circumstances or any matters of fact that would probably occur as the result of Mr. Fowler's evidence. If there was anything of that kind, then, of course, the evidence you gave before and the documents will speak for themselves? A.—I think I covered that pretty fully.

Q.—That is all you have to say on that subject? A.—Yes.

MALCOLM L. LEITCH, sworn.
Examined by

MR. TILLEY: Q.—What position do you hold? What is your occupation or work? A.—I am in connection with the Empire Accident and Surety Company. I am the President.

Q.—Have you at any time been concerned in any purchase of land from the Union Trust Company or the Great West Land Company? A.—I have.

Q.—How large a block of land? A. 100,000 acres.

Q.—Who was the purchaser of that? Yourself or a company? A.—There were three in the agreement of purchase, Mr. J. H. F. Blue, Mr. M. B. Coltman and myself. Afterwards I made an arrangement by which I hold the lands myself.

Q.—Is any person connected with the Union Trust Company or the Great West Land Company interested with you in the purchase? A.—In the purchase, no. First it was thought to put these lands in the shape of a company, to capitalize it and make a company out of it. Then before buying these lands or about the time they were bought, Mr. Wilson, K.C., said he would like to take \$5,000 stock himself.

Q.—In the proposed company? A.—In the proposed company, in the shape of preferred stock or preference stock. Then in the meantime before the company was floated I got an offer of turning over 60,000 acres of the land, so the company was never completed, but Mr. Wilson put in \$5,000, less his legal expenses.

Q.—He put in your hands do you mean? A.—In my hands.

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Q.—For the proposed company? A.—Yes.

Q.—\$5,000 of his own money? A.—Yes.

Q.—Not the Union Trust Company money? A.—No.

Q.—Or any other money? A.—His own money.

Q.—His own private money? A.—Yes.

Q.—And it was intended that that would be used in buying stock in the company that was formed or had you then abandoned that? A.—We knew at that time that the company would not be formed, but he got a certain paper—of course, I did not expect to be called on, and I have not the papers with me—which he said was equivalent to putting his money in in preference stock.

Q.—This document which was drawn up, when you signed on receipt of the money, put him in the same position as he would have occupied practically if he had taken preference stock in your company? A.—Yes.

Q.—You say that that \$5,000 was not all paid but there was some deduction from it in respect of legal services? In respect of what legal services? A.—Well, he saw about getting a charter. First it was thought we were going to have a charter. Of course afterwards that was abandoned, and on the best of my recollection I never got the detailed account from him at all.

Q.—Did it cover any services connected with the purchase of the lands? A.—Yes. I should have said also that Mr. Matthew Wilson, K.C., was our solicitor—to be our solicitor—in connection with the new company if it were formed, and acted as our solicitor.

Q.—Did he act in connection with the purchase of the lands for you? Did you consider it so? A.—No, I think not. He acted entirely for the Great West Land Company, or for that company.

Q.—And when was the arrangement made with him that he should occupy the position of solicitor for the company that was to be formed and handle the lands? A.—Well, it was proposed after that year about the same time.

Q.—Was it part of the negotiation for the sale? A.—No, I think the sale was completed, to some extent at least. The sale was begun before that, because I had an idea that he could not act as our solicitor on account of acting for the other people.

Q.—And you did express that idea? A.—Yes, I did.

Q.—What was the outcome? A.—He said there was nothing to prevent him from acting for both.

Q.—How did you come to pay him any money for his services in connection with the transaction of purchase when you understood that he was acting for the owners of the land? A.—But that was after he had acted for us that I paid him that money.

Q.—You said the money was to cover work that he did in connection with the purchase? A.—Yes, work that he did in connection,—not in connection with the purchase for us, more leading up I suppose, to the getting of the charter.

Q.—Do you say your remuneration was not because he secured for you these lands? A.—Oh no; no connection whatever with that.

Q.—When you decided to buy the lands what steps did you take to identify the lands, do you remember? How did you do that? Did you have a formal agreement prepared? A.—Yes, there was a formal agreement prepared, an agreement of purchase.

Q.—Did you sign the paper setting out the lands that you selected, comprising 139½ sections, making 89,477 acres? A.—Well yes, I might say I signed that, for I signed it afterwards. Mr. Coltman and Mr. Blue went into that matter with Mr. Wilson, and they called me up in my office in London, and I assented to it over the 'phone and afterwards signed.

Q.—And where did you sign? A.—In Toronto.

Q.—Did Mr. Foster sign at the same time as you did? A.—I think he signed some paper, whether he signed that one or not.

Q.—In what capacity did he sign? A.—I do not know. I would just like to have the paper. I have not the paper with me.

Q.—I am told that you signed some such statement as this, "the foregoing list of lands chosen by us." (Reads). Do you remember signing something like that? A.—Yes.

Q.—"The foregoing lands chosen by us?" A.—Yes.

Q.—In what capacity did he sign? A.—He made a selection. I suppose it would be on behalf of the Great West Land Company.

Q.—He identified that, acting for them? A.—Yes, he took the map and if I recollect rightly out of a block of so many acres he selected

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every alternate section, and I took the other section.

Q.—He selected what he was retaining or the Great West Land Company was retaining? A.—Yes.

Q.—Or what they were selling to you? A.—I selected what they were selling to us and he retained what they were keeping.

Q.—He pointed out what they were going to retain? A.—Yes.

Q.—And does that account for his signing along with you? A.—I suppose it does.

Q.—Had he any interest in the purchase along with you? A.—No.

Q.—Neither in the original transaction or since? A.—No.

Q.—No interest in the matter whatever? A.—None whatever.

MR. TILLEY: We might adjourn now to to-morrow morning at 11, when the Life Underwriters Association will have representatives here to address Your Honour.

JUDGE MacTAVISH: Yes.

The Commission adjourned at 10 p.m. November 7th, till 11 a.m. November 8th, 1906.

NINETY-SIXTH DAY.

MORNING SESSION.

Ottawa, Ont., November 8th, 1906.

LIFE UNDERWRITERS' ASSOCIATION.

MR. TILLEY: The representatives of the Underwriters' Life Association are here this morning, and before having a discussion with them I propose to call the Secretary, Mr. Milne, in order to show the nature of the Association, the extent of its membership, and so on.

WILLIAM S. MILNE, sworn. Examined by MR. TILLEY:

Q.—You are the secretary of the Life Underwriters' Association? A.—I am.

Q.—Is that the proper name that I have used? A.—That is correct.

Q.—When was it formed? A.—Provisionally on June 4th of this year, and that provisional understanding or agreement was constitutionally made permanent on the 25th June.

Q.—So that in the month of June the Association was organized? A.—Quite so.

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Q.—Prior to June had there been any association of life insurance underwriters? A.—There had been several local associations, but nothing of a Canadian character.

Q.—Just state what you mean by local associations. Associations in certain towns? A.—In certain cities, certain localities.

Q.—Not covering even a province? A.—Oh, no.

Q.—Then what is the difference in the extent of membership between the present association and these former local associations? A.—Well, the Canadian body is comprehensive. It takes in all the provinces, we have associations in every province. Beginning with the east, we have one in each of the maritime provinces, three in Quebec, eight in Ontario, and one in each of the other four provinces.

Q.—Are you in affiliation with any American body? A.—Yes.

Q.—Would you just describe the relationship that exists? A.—We applied for affiliation with the National Association of Life Underwriters of the United States, and the petition was accepted.

Q.—That is an association in the United States? A.—Yes.

Q.—Is it an association that has been in existence for any length of time? A.—I should think 23 years would be the time.

Q.—But prior to June of this year it was never extended into Canada? A.—Not at all, no.

Q.—And then you formed your body here, and applied to the American body for affiliation with them? A.—Yes.

Q.—Have you any printed rules or constitution? A.—I have a copy of the constitution.

Q.—Would you let me make that an exhibit? A.—Yes. (Exhibit 680.)

Q.—Is your association an incorporated body here? A.—No, sir.

Q.—It is merely an aggregation of insurance agents with a name? A.—That is all.

Q.—But without any corporate or legal existence as an entity? A.—Not incorporated at all as yet.

Q.—Has there been any discussion as to the advisability of incorporating? A.—It has been discussed.

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Q.—Has any decision been arrived at with regard to that? A.—Not as yet.

Q.—The advantages and disadvantages I suppose are being considered?

A.—Quite so.

Q.—Who is the president of the association? A.—Mr. G. H. Allen of Montreal.

Q.—Mr. Allen I understand is not able to be here to-day? A.—No, he is under the doctor's care.

Q.—And then besides yourself as secretary what other officers have you? A.—We have nine vice-presidents; that is one for each of the provinces, treasurer, secretary and executive committee of eight members. There is also an honorary president.

Q.—Is there any place named as the head office of the association? A.—No sir.

Q.—Meetings would be held at such places as would be decided on from time to time? A.—Quite so.

Q.—There is no place according to your constitution where head office meetings as it were are to be held? A.—It is fixed at the annual meeting.

Q.—To what extent is it open to any life insurance agent to join this association? A.—The door is wide open.

Q.—Is there a membership fee? A.—Yes.

Q.—To pay the disbursements that would be incurred I suppose? A.—He joins the local association, and the local association is in affiliation with our Canadian body.

Q.—Does the Canadian body fix the fee or the local association? A.—The local association have the power to fix their own fees.

Q.—And is it necessary that an agent should be in any way proposed for a membership or balloted on? A.—That is a matter of the constitution, a matter of the by-laws of the local association.

Q.—It is not a matter that the Canadian body dictates in any way to the local? A.—No.

Q.—Can you say as a fact what rules prevail with regard to that generally throughout Canada? A.—I think that there is no rule covering that point. A man who is known to be engaged in field work in connection with some reputable life insurance company would be admitted.

Q.—Is it understood that the persons who become members devote substantially their whole time to insurance work? A.—Yes.

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Q.—They are not admitted if they carry it on as a— A.—No, it has to be an active field man, devoting his time and attention to life insurance work.

Q.—Has there been any constitution or rules adopted except what are shown in this printed pamphlet, so far as the Canadian body is concerned? A.—None whatever sir.

Q.—Are any rules adopted so far as you know, in the local association whereby a member becomes expelled or excluded if he carries on his work in a way that the association does not approve of? A.—Not that I am aware of.

Q.—That might exist in the local? A.—Yes.

Q.—Then probably the best way will be just to run over the main provisions of this set of by-laws and constitution, which need not appear upon the notes. (Reads by-laws). Then, Mr. Milne, are there any local associations that were in existence when the Canadian body was formed that have not come in? A.—No sir.

Q.—Is there any association of agents outside of your association now? A.—Not that I am aware of.

Q.—And can you say in round figures what proportion of agents are members of your association and how many are outside of your association in Canada? A.—At the present time, at least on the 30th September, the membership was 500.

Q.—That is the membership of your association? A.—Yes.

Q.—And can you say how many qualified agents there would be? A.—I would not like to say.

MR. LANGMUIR: Q.—Can you estimate it? A.—I would not care to.

MR. TILLEY: Q.—Does your association substantially represent the body of life insurance agents now in Canada? A.—Yes.

Q.—You think that there is no other interest that could be brought here to give a view that would not be in accord with the ideas of your association? A.—I do not think it possible.

MR. GEARY: No questions.

MR. TILLEY: Then I propose that your Honour should hear what the representatives who have been sent to speak for this Association shall have to say, without in any way asking that they should be put on oath, more for the purpose of being able to make the best possible recommendations when the report that Your Honours must present will come to be

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drawn. If anything that is said is based on facts that are supposed to exist, then I would ask Your Honours to let me at any time prove or disprove the existence of the facts that are alleged, so that that will be done under oath and in the regular way before your Honours. The president of the Association I learn could not be here within any reasonable time and for that reason we must get on without him, but if he has any memorandum that he desires to hand in at any time I am sure your Honours will be glad to receive it.

JUDGE MacTAVISH: Certainly, we will receive it at any time.

MR. TILLEY: Mr. Reid of the executive is here, and possibly in the absence of the president I might ask him to say what he desires to present.

MR. REID: Gentlemen of the Commission, in the unavoidable absence of President Allen, owing to illness, the duty devolves upon me at the eleventh hour to take the initiative in introducing the subject matter before you. I am pleased to be accompanied by the following members of the executive: H. C. Cox, Toronto; W. S. Milne, Toronto; Mr. A. S. McGregor, London; Mr. T. J. Parkes, Montreal; Mr. G. H. Simpson, Montreal; Mr. C. O. Palmer, Sherbrooke, and Mr. R. H. Haycock, President, and members of the local association. I may say that our duty, as it has appeared to us, has been quite plain in regard to our interview with your Honourable Body. We have conceived it to consist in laying before you, in as clear, as concise and as forcible a manner as possible, a statement of the position from the agents' point of view. I think we may feel like congratulating ourselves on both the tone and the spirit of the memorial which we shall ask permission to lay on the table. We have felt as in duty bound to treat the different matters coming before us from a purely Canadian standpoint. I think your Honours will have sympathy with us and approve of our attitude in this regard. While we appear in different places and different relations, we still, I think, occupy the broad platform of citizenship in this young country, and desire that the Dominion and its institutions and interests should feel that we have a community of interest in desiring that they should be furthered along all the lines of true national development.

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If you will permit a personal reference to your Commission, which is, I wish to say, shorn of all flattery, I desire to say, gentlemen, that in my judgment you are one of the most important, if not the most important, Commission that has ever served under Royal sanction in Canada. And why? Because you are dealing with one of the greatest interests in the Dominion, an interest representing \$637,000,000 of insurance carried by the people of Canada. Now, this large amount of insurance, it strikes me, is one of the most encouraging signs of the times, and is a striking object lesson on the thrift of Canadians, and if you will permit me also to say that during the progress of this investigation, which has now extended over several months, and represents long and arduous labours—labours which I am sure you are anxious to have brought to a conclusion—I am pleased to know that our people have been free from anything in the nature of that panicky condition which attacks some of our neighbours across the line. In the face of the busy attitude of a portion of the press in trying to excite our people in this way, by taking five per cent. of the evidence that might be in any way construed into the sensational, and publishing that with all the scare head lines, while the ninety-five per cent. of real good in the evidence is ignored. I say in the face of that our people have refrained from indulging in the panic which we have witnessed in the United States, and it strikes me that this is an evidence that our people have confidence, on the whole, in the business and the social civilization in the country. And why should they not have confidence in the life insurance companies in Canada today? I say that under the supervision by the Federal authority of our life insurance companies, the inspection is so severe that any such condition of affairs as was revealed in the Armstrong investigation is practically impossible under the conditions that exist in this country. I think that the investigation has amply proven that the statement made by Finance Minister Fielding in the initial days of the Armstrong investigation, when public excitement was so high, that insurers in Canadian companies were

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amply protected and abundantly safeguarded, has been borne out by the logic of events, which you gentlemen have brought out in your different investigations. I do not intend to take up the time of the Commission. I refer to the large amount of insurance carried—and we agents can take a pardonable pride in being factors in contributing to this condition of things. We have prepared, as I have said, a memorial to lay before you. Mr. T. J. Parkes, of Montreal, has brought the memorial with him, and I shall ask your Honours' permission to permit him to present it.

MR. T. J. PARKES then read the memorial to the Commission.

MR. TILLEY: This will be made an exhibit (Exhibit 681.) We will have extra copies made.

MR. PARKES: I do not wish to dwell on any of the paragraphs unless it is the wish of the Commission, and I will simply read the memorial in the concise form in which it is prepared.

MR. TILLEY: I should probably say that we have no desire that you or any other representative body should in any way curtail what they desire to say. The day is set apart for the life underwriters, and they will take the whole of it, or such part of it as they desire. We shall be very glad to hear Mr. Parkes, or any other member, in explanation of the topics which are mentioned in the report.

MR. PARKES: The reports state that rebating should be prohibited by legislation, both Federal and Provincial. I might be permitted to say that in Quebec we have already taken steps to secure incorporation, and we had an interview with Premier Gouin to see whether we could get that put through, and also to obtain an anti-rebate law.

MR. LEBEUF: Does the Association you have just referred to represent the Province of Quebec or simply Montreal and Quebec?

MR. PARKES: The three associations, Montreal, Quebec and Sherbrooke. They are the only associations in that province and embrace the whole province.

JUDGE MAC TAVISH: Is it in contemplation to secure three separate corporations?

MR. PARKES: Oh no, sir

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JUDGE MAC TAVISH: One incorporation?

MR. PARKES: One incorporation for the three bodies, with a central board of control.

MR. TILLEY: And with power to add branches in other places in Quebec?

MR. PARKES: Yes.

MR. KENT: Is fifty per cent. the proper rate of commission?

MR. PARKES: The average rate of commission up till recently has been about forty-eight per cent. While it is true that there are rates of commission running as high, I am told, in some cases, as sixty and seventy per cent, yet the average rate on the whole business is, I believe I am correct in saying, forty-eight per cent.

MR. LANGMUIR: I suppose that is eliminating any portion of the rebating, if any has been given to an agent?

MR. PARKES: Beg pardon.

MR. LANGMUIR: Does that forty-eight per cent. eliminate any portion of rebating that may have come into the hands of an agent? In other words is that the pure commission?

MR. PARKES: That is the pure commission. If he allows any rebate it has to come out of that.

MR. LANGMUIR: In every case?

MR. PARKES: Yes.

MR. LANGMUIR: That is the rule?

MR. PARKES: Yes, that is the rule. I think, perhaps, I might be permitted to make a remark, as I have not found that it has been brought out in any evidence which has been placed before your Honours. While it is true that the rebate has to come out of this commission, yet in some cases the companies, in order to keep the agent alive, have had to make an advance to him to provide bread and butter—

MR. TILLEY: We have had evidence as to that?

MR. LANGMUIR: That has been shown.

MR. PARKES: And that has been brought as a debit against them at the end of the year, and it is like a millstone around his neck. Then paragraph No. 6 reads—(reads paragraph No. 6).

MR. KENT: That is the most important part of your memorial.

MR. PARKES: As far as we have gone, your Honour.

MR. KENT: Or as far as we go.

MR. PARKES: I stand corrected. Then we come to the question of pub-

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licity, and I think I may say that we are coming to the crux of the thing when we come to the matter of publicity. Although our remarks on it are very brief I would like to make it as emphatic as I can. (Reads paragraph.)

MR. KENT: You leave out one very important part that publicity will cure, and that is the expenses of head office management.

MR. PARKES: Well, there it is, is it not, your Honour? "The cost of new business, the cost of taking care of old business."

MR. KENT: Well, of course, the agent could not be expected to criticize the acts, still less the salaries of their principals. So that I do not expect to find any direct reference to the salaries of the presidents or other officers of the companies.

MR. PARKES: The trouble is we are representing so many companies that we can scarcely present a common argument on that point. Some of our members might object to criticize their presidents although personally I would not object for one moment to criticize the president of my own company or any other company who was receiving an excessive salary compared with the amount of risk he is running, and the large amount of funds he is controlling.

MR. KENT: Where the president of an insurance company or any other company is a thousand dollar man, receiving a ten thousand dollar salary, it seems to me it is a fraud on the policy holders. Life insurance profits should be paid according to merit and not according to the size of the company. That has always been my view. The great abuse in the American companies which has been referred to, arose from the fact of an ever growing surplus which is always rising to the clouds, and every officer thought that he should have a share of it in order to keep it down. That is how we find \$150,000 men who probably, if they were left to their own devices, could not earn \$1,000 a year.

MR. PARKES: I should be most happy to express an opinion on that subject if I had received any mandate from the executive committee to do so

MR. KENT: I would not like any expression of opinion from you. I am simply expressing my opinion. I did not desire and I do not expect any opinion from the agents. I understand the delicacy of their position.

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MR. REID: The point is this: it is probably unfair to take an exceptional case. You should take the average case.

MR. KENT: I have spoken generally, because there is no officer in any company in Canada receiving \$150,000 a year.

MR. PARKES: Not yet.

MR. KENT: So that my remarks cannot be personal to any officer in Canada; at the same time I cannot shut my eyes to the fact that expenses and salaries are always increasing without, sometimes, any apparent increase in the merit of the recipient. If a man was receiving a salary simply because the surplus of his company is increasing, what shall he receive in twenty years from now when the company reaches an enormous size—the size predicted by all well wishers of the country, politicians or others? We are always referring to our growing country. In the natural course of things these salaries will grow in proportion to the growth of the country, and then probably before some of us die we will see \$150,000 men in Canada.

MR. PARKES: We hope we may be there.

MR. TILLEY: Mr. Parkes says that that is all that he desires to say just at the moment. If any of the other gentlemen present desire to say anything I would suggest that your Honours should hear them now, but if not, it might be useful if your Honours, after receiving this document which is so full of suggestions should adjourn until two or half-past two this afternoon, thus affording an opportunity to consider it a little further, and then probably the agents could appear before your Honours again to discuss any point that might occur to your Honours. There are a great many suggestions in the document and it is probably as well it should be fully considered and discussed. I suggest that to your Honours.

MR. KENT: It has been stated a good many times in the course of our investigation that the agents commission on new business was more in the neighborhood of seventy per cent. than fifty. If the agents here are prepared to maintain that the average rate of commission is forty-eight per cent. or thereabouts we may be compelled to look further into this question. My idea always has been—and it has been gathered from the evi-

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dence—that the agent receives seventy or seventy-five per cent. of the new premiums in every case.

MR. TILLEY: That is on the best plan. Usually the commissions I think have been shown to be graded, seventy being about the highest paid on any plan of insurance, and it runs from seventy down to twenty.

MR. PARKES: Fifteen.

MR. KENT: Blackadar said that it was sixty.

MR. PARKES: He was alluding to the graded commission, sixty per cent. on the most favorable plan, and it runs down according to the period that the policy is for. A ten year policy does not carry as much commission with it as a twenty year policy or a life policy.

MR. KENT: The agents are dreading, as is evident through the whole of the memorial, some rash action on the part of the Commission, which I think they have no reason to fear.

MR. PARKES: No, your Honour, we do not fear rash actions, but we do fear lest the condition of legislation in the neighboring republic might so affect the minds of the Commission that they might be induced to follow suit.

MR. KENT: But there are a great many recommendations in your memorial which, however well meaning, are perfectly needless. You may rest assured that this Commission is not going to break any windows.

MR. PARKES: May I explain our position with regard to that very matter. You are alluding to the remarks we made with regard to New York legislation.

MR. KENT: Yes.

MR. PARKES: When the first circular was issued by the president of the Life Underwriters Association of Canada, Mr. Allen, whose absence I deeply regret to-day, and who would have addressed your Honours, there was a clause in that circular which attracted the attention of your counsel and in his invitation to us he specifically referred to that clause. The clause reads thus, "Now, here in Canada we are surrounded with a situation demanding great care and sound judgment." (Reads clause). I think your Honours will admit that we did not take the ground that we were afraid you were going to make rash recommendations, but the reverse. That clause attracted the attention of your counsel, and in his letter inviting the Canadian Underwriters Asso-

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ciation to send representatives here he specifically refers to it. In the second clause of his letter, June 22nd, he says, "It seems by the circular issued by your society under date 2nd June, 1903." (Reads letter). So that I must very humbly submit that your Honour is mistaken in thinking we were afraid you were going to make rash recommendations.

MR. KENT: What we want to get is cheaper insurance without in any way impairing the guarantee which a company should give to its policyholders. We want the insurance companies to live forever, but the policyholder wants to get his insurance as cheaply as he can get it consistent with perfect safety. He does not want the agent to run away with any more commission than it is necessary for him to charge. He does not want any portion of his premium, we won't say squandered, but diverted in any other unnecessary way. This commission of course will be required to make certain recommendations, which are not easy in their nature, but that is why we would like assistance from the agents as from the company, to see just in which way, to speak vulgarly, we should hit them.

MR. PARKES: Hit the companies or the agents?

MR. KENT: Both.

MR. LANGMUIR: What results would you consider to be the proper test in regard to what you look upon as the experimental legislation in the United States, to make it successful or the reverse? Would it be an increase or a decrease of insurance, a cheapening of insurance or rendering it more expensive, or what would be your test, that the experimental had become either successful or the reverse?

MR. PARKES: Do I understand your Honour's meaning? What is our test of the success of the experimental legislation?

MR. LANGMUIR: It is claimed now that it is entirely experimental. What results will put it beyond the experimental?

MR. PARKES: I have not consulted my colleagues about this, but I presume I may speak.

MR. LANGMUIR: I would like you to consider that. We must assume that this body in Albany gave great consideration to this important subject. We do not necessarily take them as a guide, but to reverse their deci-

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sion entirely would perhaps do a great deal of harm; so I would like to know, speaking for myself what you would consider the proper test if it has passed beyond the experimental stage.

MR. PARKES: If it should prove in a year or two that insurance can be sold at a less cost than has been the result in the past through the working out of the New York legislation, then the experiment would be a success, but as you notice we take exception to that, because we say you are going so to hamper the companies that they will not be able to branch out in the direction of more business.

MR. LANGMUIR: That is a very proper standpoint for an agent to take.

MR. REID: I would like to add that the logic of events has shown that legislation will not, and cannot, cheapen insurance.

MR. KENT: I rather dissent from you there, Mr. Reid. I think that legislation will probably be found to cheapen insurance.

MR. PARKES: Does not the almost euclid quotation I gave about fill the bill, "the maximum of publicity, the minimum of legislation, and competition will do the rest"?

MR. KENT: It is very good. It is one of the best parts of your memorial.

MR. PARKES: I said we were coming to something better when Commissioner Kent spoke to me before. We believe that if the door is thrown wide open and the companies are under the searchlight of the public they cannot but live right, and we believe, too, that our companies to-day, and our managers, and the large bulk of our agents, are, every man of them, resolved that their business shall be conducted upon perfectly square, just and honest lines, and that everything shall be done to reduce expenses and put insurance within the reach of the public at the least possible expense. But a man has to live. The poor, plodding agent, like myself, has to live, and a large amount of his work is thrown away as far as he is concerned. After he has devoted weeks and months of canvassing some other man steps in and gets the benefit of his work. Of course, on the other hand, he sometimes reaps the benefit of the other man's work, but as a rule we find our missionary efforts

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are not as amply repaid as we would wish.

MR. KENT: There is no doubt that the work of this Commission will be in great part to turn the limelight as far as possible on all you gentlemen and companies, so that you may live and work in open day and your policy-holders may be aware of what you are doing.

MR. PARKES: We want that very thing.

MR. KENT: Even the greatest thief does not steal in broad daylight, as a general rule, but waits until it gets dark.

MR. MCGREGOR: Mr. Parkes has asked to have the limelight thrown on us and on the companies.

MR. KENT: I am glad to see the agents have emphasized that particularly.

MR. PARKES: While the agents have been exposed to a good deal of public calumny and slander—I think I may say that—

MR. KENT: Say criticism.

MR. PARKES: Yes, undue severe criticism, I think the bulk of the agents are men who have a stricter regard for the morality of their business than the bulk of men in any other business, and during late years it has been more and more insisted upon that in our profession—and we are taking that high ground to-day, that the men that canvass ought to be in a profession—and that is why in our recommendation we ask you to enable us to put our business upon the rank of a profession. Speaking personally—and I think in doing so I express the sentiment of the executive committee—we believe our business ranks as high in the benefits it affords to the public as almost any profession in the country, and we wish to raise the status of the agent in the field, to be able to raise that status by legislative action, that we may get rid of those men that have in the past—and we confess it with humility and shame—cast a reflection upon our business. We do not hide the fact that there are men in our business, as in any other business, who have been a disgrace to the cloth, and from them we wish to protect ourselves, and we think we are justified in asking the Commission to enable us to protect ourselves, even as barristers and attorneys can protect themselves, because

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they have made it possible where a member does anything that is opposed to the etiquette of the bar that he should be debarred, and the same with the notaries, the accountants, and the actuaries, and if we can get in that position, I think your Honours will find that the morale of the profession is strong enough to clear out of its ranks those who should not be there.

MR. LEBEUF: Are you speaking of all the agents when you say that?

MR. PARKES: Of all of them.

MR. LEBEUF: I ask the question because whenever I have spoken to any of the presidents or managers of companies, and asked them if they thought by incorporating the agents as a body it would raise their standing, in every case they have said, "Well, we do not think it." I am glad you have a different opinion.

MR. PARKES: My confreres who are here to-day are, most of them, in managerial positions, and I think they will fully support the statement I have made that we believe that incorporation and placing of these powers in the hands of agents would raise the standard, and we would have the power to do that which we desire, and at the same time it would not lessen the amount of good material which the managers could put upon the field to canvass the public.

MR. LEBEUF: And you would not have a class of agents going to the poor people and getting them to take out policies which they do not understand, and then afterwards these poor people would find that they were bound to drop out.

MR. PARKES: And policies which the agent perhaps did not understand.

MR. LEBEUF: That is true.

MR. PARKES: Absolutely true. There are too many cases of agents going on the field who do not know the first principles of insurance, let alone honesty. That kind of agent will sell a twenty payment life on the basis of a twenty payment endowment. We admit that. A twenty payment life is offered to him and a twenty payment endowment is the rate given to him.

MR. REID: And it is these men who are making insurance a refuge.

MR. TILLEY: Would you cut out such men from membership?

MR. REID: I will say there is a determined effort on the part of the reputable old established companies to

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steer clear of employing men of that stamp, but in the great rush for organization which competition induces in the case more particularly of some of the younger companies, men of that stamp are taken, which is a disgrace to any calling.

MR. PARKES: Mr. Tilley asked the question whether we would debar these men from our association. As far as we have consulted together in regard to the incorporation of a body our idea was that a certificate should be granted to duly authorized agents. At first the examination would have to be of a very simple character, and we would issue preliminary certificates good for three or six months to men who wished to try the business to see whether they were fit for it or not, and the manager would have to accept the responsibility for them. Then when the three months or six months probation term had expired they would have to pass a more severe examination on practical arithmetic and on the different plans of insurance, and as the incorporated body increases in strength and gathers to itself the good feeling of all the insurance companies, then the examinations could be made more and more rigorous, not that a man should be an actuary, but at all events that he should have some glimmerings of insurance matters.

MR. KENT: He should know the different rates and premiums and the different plans anyway.

MR. PARKES: And he should know the difference between a twenty year endowment, a limited policy, a twenty payment policy and an all life policy.

MR. KENT: And he should know the difference between fire insurance and life insurance?

MR. PARKES: Yes.

MR. LANGMUIR: I take it for granted that your association has given great consideration to every recommendation here. Now respecting investments, do I understand your association is in favor of free trade in investments? You do not want any restriction at all?

JUDGE MAC TAVISH: No change I understood.

MR. LANGMUIR: The memorial says that any limitation which restricts the investment impairs the company. Do you take that stand?

MR. PARKES: I do not know that we would go quite so far as that.

MR. LANGMUIR: I am very glad to hear it.

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MR. PARKES: We take the ground that anything that prevents the company making a legitimate profit increases the cost of insurance and therefore interferes with our selling of business.

MR. LANGMUIR: You would not be in favor of taking Cobalt securities, which are paying an enormous profit?

MR. PARKES: I am not in the investment department.

MR. LANGMUIR: You are making a recommendation here, and assuming you to be a body capable of making recommendations to the Commission, and you set them out here and you state here that there should be no restriction on investments. Now coming from a body of men whose interests are bound up in the welfare of the companies they represent it seems to me that is a very broad recommendation.

MR. PARKES: Is not the total outcome of our recommendation in No. 9 rather that we recommend that nothing further should be done to further restrict?

MR. LANGMUIR: No you say no further restriction, and then you go on to quote that Great Britain and Massachusetts do not restrict, and the House of Lords have made no recommendation to restrict. The tendency of the whole recommendation is that there should be in your opinion no restriction of investments. It strikes me so. Am I wrong in that conclusion?

MR. PARKES: I do not think the executive wish to take any such strong stand as that. As I interpret the feeling of the executive it was more that as far as the Canadian law stands at present it has gone quite far enough.

MR. TILLEY: Do you approve of section 50 as it stands?

MR. PARKES: In section Four we call attention to the discrimination in favor of the British and American companies. That is as to outside investment, but I mean as to the power of Canadian companies to invest here.

MR. LANGMUIR: You know the law for the protection of widows and orphans in what is known as the Trustee Investment Act steps in and says to all trustees and executors "You must invest in this and that and nothing else, and if you make a loss in investing in anything else you should pay it. Do you think your insurance moneys are trust funds?"

MR. PARKES: Not to the same extent as in the case of a trustee for a widow.

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MR. LANGMUIR: Why not? Does it not go to the widows and orphans?

MR. PARKES: Not in every case.

MR. LANGMUIR: Then those moneys that do not go in that way go to speculators who are trying to get interest on their money.

MR. PARKES: And for endowment and some for old age.

MR. LANGMUIR: But the great bulk of it goes to the widows and orphans?

MR. PARKES: Yes.

MR. REID: There is no doubt about that. There is no doubt that while the trust must be safe, owing to the present conditions of life insurance it must also be made profitable, because the investment element has entered into life insurance. What we mean in the recommendation is that there should be no restriction insofar as safe investments were concerned, and we take it that the general law and the charters under which these companies act will regulate the kind of investment they are engaged in, but we mean to say that while the investment must be made under present conditions it must be profitable, and anything that will prevent them earning profits will interfere with the paying of policies.

MR. LANGMUIR: Always having regard to safety.

MR. PARKES: Yes.

MR. LANGMUIR: I think you have put this a little stronger than you intended to put it.

MR. TILLEY: Does the company want to make profit or get interest on their money?

MR. PARKES: They must earn three and a half per cent.

MR. TILLEY: Should they be restricted in their investments, or allowed to endeavor to make profit?

MR. LANGMUIR: You want to provide first for the safety of the investment.

MR. PARKES: Yes, and the second profit.

MR. COX: I think this was the gist of the platform we laid down, just to make some reference to the question of investment, with the feeling that that was a point which naturally and properly come under advisement between the Royal Commission and the managers of the companies.

JUDGE MACTAVISH: I was going to say that it seemed to me to be a question in which the agents or the Life Underwriters' Association did not

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have as great an interest as they had in some of the other questions in the memorial.

MR. COX: We just wanted to get an indication of opinion along that line.

MR. TILLEY: What I was going to suggest was that probably your Honours would like to read over this memorandum more carefully and meet the agents again because they have come some distance and it would be a pity to let them go before the matter was fully considered.

MR. LANGMUIR: If we adjourn till three o'clock we could have an opportunity of considering the question.

The Commission then adjourned till three o'clock.

AFTERNOON SITTING.

The Commission resumed at three p.m.

MR. TILLEY: In going over the memorandum that has been handed in it seems to me that possibly it is but fair to the agents that some evidence should be given before your Honours to establish the per cent. of the agents average commission.

JUDGE MAC TAVISH: Yes.

MR. TILLEY: And what the average agent nets in his business, and for that purpose I will call Mr. Cox.

HERBERT C. COX sworn, examined by

MR. TILLEY: Q.—You are connected with the Canada Life Insurance Company? A.—Yes.

Q.—In what capacity? A.—As a general agent or a branch manager.

Q.—Covering what territory in Canada? A.—The eastern half of the province of Ontario, east of Toronto.

Q.—And are the agents who operate in that part of Ontario under your jurisdiction? A.—Yes.

Q.—And do you take the pains to ascertain what the average commission of these agents is? A.—Yes sir.

Q.—And how do you arrive at it? A.—By taking the first year's premium of any year's business and the total commissions paid to them. For instance our commissions run all the way from sixty-five per cent. on an all life policy with profits down to two or two and a half per cent. on a single premium policy. Commissions vary according to the plan of policy.

Q.—Then you make that computation in respect of new business? A.—In respect of new business.

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Q.—Then in respect of renewal business do you make any computation there too? A.—No, we pay our men a regular renewal rate. Any averages that I have ever struck have been just on the first year's cost.

Q.—Will you tell the commission what the result of your computation has been? A.—On a business covering in eastern Ontario from a million and a half to two million dollars a year, which is the production of that branch, the average commission worked out year by year over a series of years has been from forty-eight to fifty per cent.

Q.—Forty-eight to fifty per cent. of the new business? A.—Of the new business. Of the new premiums.

Q.—Can you say how that compares with other companies in a general way? A.—Well, I should think it would be very much the same as other companies. There is not a very wide difference.

Q.—So that you think it would be fair to say that that is the average premium, average return for agents in Ontario or in Canada? A.—I would think so, I would think that quite fair.

MR. KENT: Q.—That is forty-eight to fifty per cent. of the gross premiums? A.—Yes.

MR. TILLEY: Q.—Of the gross first year premiums? A.—Of the premiums on which we sell the policy.

Q.—It is stated in the memorial that has been put in this morning that it was shown before the Armstrong commission that the average income of an agent was under \$800 per year. That is what is stated in your memorial. How does that compare with the average income of a Canadian insurance agent? A.—I would think it would be about the same.

Q.—The average agent might write about how much insurance? A.—Well, we consider a man who writes \$100,000 a year a fairly good man. That is the basis upon which these figures are made. Of course some of them would be more than that and others would be less.

Q.—Are you speaking now of agents who devote their whole time to the work? A.—Who devote their whole time.

Q.—Many of them who devote their whole time would write less than that sum? A.—Yes.

Q.—And some would write more? A.—But I think it right to say that if

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a man is writing less than \$50,000 a year he cannot devote his whole time to it. He may be doing some fire insurance or something else.

Q.—Under \$50,000, he could not continue at that rate? A.—No.

Q.—Without adding something else to his line of work? A.—No.

Q.—On that basis what would his commission be? About \$800 you say, on the basis of \$100,000 of business? A.—On the basis of \$100,000.

Q.—You put the average premium at what? \$30? A.—Yes. It would be \$1,500 according to our figures.

Q.—Then from that he must pay his own disbursements? A.—Certain of them. I think it varies in different companies, the disbursements an agent has to make.

Q.—What would be the general rule with agents? What expenses would the company pay for him and what would he pay himself? A.—I think pretty much as set forth there.

Q.—You say here he would pay out of this income all expenses for private telephone. What do you mean by private telephone? A.—The telephone in his office, I presume.

Q.—His own telephone? A.—Yes.

Q.—Postage and telegrams, car and railway fares, hotel bill and sundries? A.—Yes.

Q.—You think that usually the agent must pay that out of his income? A.—Yes.

Q.—When you say \$800, does that allow anything by way of rebate that the agent might be expected to pay out? A.—Well, I presume that that would be the average net income of the agent.

Q.—After providing for some rebates that he would give?

Q.—Then do you say that with an income of about \$1,500, after paying these incidental expenses that you have mentioned, that the difference between that and the \$800 would be consumed by rebate?

MR. KENT: Expenses of his wife and family probably.

MR. TILLEY: That does not come out of the receipts.

MR. REID: There are two classes there.

THE WITNESS: The \$1,500 is based on \$100,000 of business.

MR. TILLEY: And the average of \$800 was based on \$50,000 of business? A.—Yes.

Q.—What is the average business? Did you not say it was \$100,000? A.

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—I say a man who writes \$100,000 is a good agent.

Q.—The average would be less than \$100,000? A.—The average would certainly be less than that.

Q.—How much less? A.—I do not know that I could tell you that. I do not know that I could say what the average business of a man would be. There are so many circumstances which—

Q.—According to your evidence I would gather that the average was over \$50,000 considerably?

MR. KENT: Q.—I suppose there is a great deal of difference in agents? A.—A great deal of difference in agents. And a great deal of difference in the locality in which they work, and a good deal of difference in the fields he works. One man may have a small town to which he is confined, and another man may have a whole county, and all these things have to be taken into consideration. I do not know that I could give any average for the agents.

MR. TILLEY: Q.—At any rate the \$100,000 man would be looked upon as a good agent? A.—Yes, that is the point.

Q.—And his income according to this computation would be \$1,500? A.—Yes.

Q.—And out of that he must pay these disbursements that are spoken of? A.—Yes.

Q.—Then the agent that writes \$50,000 of business, his income would be \$770 or \$800, and he must pay the disbursements? A.—But his disbursements would be necessarily less, on account of getting a smaller amount of business.

Q.—But still larger in proportion to his business, because there would be some of the expenses that would be uncontrollable? A.—Yes.

Q.—That makes no allowance at all for rebates by the agents. Can you say—I am asking you to speak, of course, entirely generally as to the agents, I am not asking for any particular case—can you say how much of his commission an agent on the average has to give away in rebate? A.—Roughly speaking, I would say a third.

Q.—And that will be, you think, the consensus of opinion of all agents. I suppose that you are in touch, more or less, with the views

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of all agents on that question? A.—Yes.

Q.—And it is generally accepted by insurance agents, is it, that the ordinary agent gives away about a third? A.—I would think that would be the amount.

MR. KENT: Q.—I suppose if rebating is not stopped the consequence will be that in the future the agent will have to give away all his commission in rebates? A.—It is getting worse all the time.

MR. LANGMUIR: Q.—Does the company not sometimes assist an agent who has given a rebate; apart from the commission that he is paid? A.—Not that I know of, not in any cases that I know of.

MR. TILLEY: Q.—Does the company not make it up to him sometimes, by way of advances? That is, do they make them advances? Whether he owes the company or not is another matter. A.—The way the advances are made, the company will undertake to give a man \$100 or \$125 or \$75 a month, as the case may be, against commission which he may earn. If he does not earn it the difference, of course, stands as a debit against him, but you will find, if you have ever been in the field, that the company won't stand that for more than six or eight months. If a man is running behind, his advance, as a rule, is stopped.

Q.—If the debit is running up, or not being reduced, then the company regards him as not making proper progress? A.—Yes.

Q.—But according to your understanding, it is not made by reason of these rebates in particular? A.—Oh, no.

Q.—But for living expenses? A.—Yes.

Q.—In order for him to operate until he gets on a paying basis? A.—That is the idea. A new man going into the business who has had no experience, he is afraid to go out if he has no private means. He is afraid to go out and depend for the first three or four months upon what commissions he may earn. He may say to the company, "I will do my best. You give me what is absolutely necessary for me to live upon during the first three or four months, and I will endeavour to make that up afterwards." And the company will do that to get the man started. But

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it is not with the idea he is going to rebate.

Q.—Is it usual for a company to take bonds from the agent, or some of his friends, for the repayment of monies advanced by way of advances? A.—I do not think so.

Q.—You think that is not a usual thing? A.—No.

Q.—It probably exists in some companies, but that is not a common practice. A.—I have not had an experience along that line. With our own company, any advances I have had anything to do with at all, were made by myself as a general agent to local agents or to special agents. These advances are not made by the company.

Q.—Is it or is it not the common practice for an agent who has a policy in view on which he must give a rebate in order to obtain it, that he should go to the company and present his case, and have some allowance made in order that he may get that rebate? A.—I do not think so.

Q.—I suppose it cannot be said to be a thing that does not happen? A.—Well, I would not like to say that either. I do not know where it has ever happened.

Q.—You are speaking for yourself there? A.—Speaking for myself.

Q.—You have not done that? A.—I might do that. I am an agent, you see. I am not a head office official. I am an agent just as any of these other gentlemen are, working on a commission basis.

Q.—That is to say, you acknowledge you have to rebate? A.—Why certainly.

Q.—Along with other agents? A.—Yes.

Q.—I think that is not an admission; that is a statement of fact. A.—That has been done.

Q.—So that you say from the agency staff there may be by an agent to a sub-agent some consideration given for a case like that? A.—There might be by a general agent.

Q.—But that does not come from the company? A.—No, that would come out of my average commission of 50 per cent.

Q.—That would come out of the agents' commission, either head agent or sub agent, in some way? A.—Yes.

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Q.—And is not returned by the company? A.—No, the company does not pay any more than that average commission of 48 to 50 per cent. That is the idea.

MR. LANGMUIR: Q.—Do some of your agents get commissions on renewals? A.—Yes.

Q.—Nearly all or all? A.—Yes, sir.

Q.—How much is that on the average? A.—That varies according to the length of time the agent has been with the company.

Q.—About how much? A.—That will run from $2\frac{1}{2}$ to 5 per cent.

MR. TILLEY: Q.— $2\frac{1}{2}$ to 5 per cent. on the volume of business an agent has? A.—On the premiums.

MR. LANGMUIR: Q.—I was going to ask if that continues with an agent so long as he remains an agent in your district? A.—Yes, and he remains an agent only so long as he is doing an amount of business that would justify his drawing those commissions. Those renewal commissions are only paid to a man who is an active agent.

MR. TILLEY: Q.—What volume in that way might one expect that an agent would get on his books in a period of, say ten years, acting as agent? A.—Oh, anywhere from \$1,000 to \$30,000 to \$40,000 of premium. It depends on the agent. You have agencies with over \$100,000 of premium on their books.

Q.—And he might get from $2\frac{1}{2}$ to 5 per cent. on that? A.—Yes.

Q.—I suppose that it is that item of remuneration that the agent considers when he decides to become an agent, developing that permanent source of income? A.—Yes, that influences him, no doubt.

Q.—And that is in addition to this item of \$800 or \$1,500 that we have been speaking about? A.—Yes.

Q.—So that at the end of a period of ten years, the substantial part of his income might be entirely out of his first year's business? A.—Yes, but as his premium increases, as that renewal income increases, he must do an increasingly larger amount of new business.

Q.—Why? A.—In order to keep that contract. For instance a man that started off ten years ago, where we might have been satisfied with \$10,000 or \$15,000 of new business from him, if he has got a premium income of \$10,000 on which he has a renewal commission, we would not be

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satisfied with \$15,000 or \$20,000 of business from him.

Q.—What I was bringing out was that it is not quite right to infer that this item of \$800 or \$1,500 is all that the agent receives? A.—In some cases it is.

Q.—Because he gets no renewal? A.—There are a great many cases in which the agent gets no renewal commission. There are cases where a man gets what we call a brokerage commission. It is practically at the same rate as the man who gets the renewal commission.

Q.—But a good agent actively engaged in his business at the end of a period of eight or ten years ought to be in receipt of an income from renewals and from first year business of about how much? What would you say a good energetic man that there would be in it at the end of ten years? A.—Well, there would be, I suppose, \$500 or \$600.

Q.—\$500 or \$600 by way of renewal? A.—Yes.

Q.—And that would be added to the commissions he would make? A.—You see he is not getting the renewals on the business he puts on the books every year, because a man who has got an agency that he has held for a little while, the premiums possibly that he put on a year or two ago have disappeared. There are lapses and transfers to other agencies, and there are claims and that sort of thing, which go to reduce his list, so that it is not increasing every year by the amount of new premiums put on in each year.

Q.—That is, there would be the deaths and lapses, and all the other ways in which insurance disappears? A.—Yes.

Q.—Leaving out that phase there would be the volume that he put on each year for the number of years he has been in the business? A.—Yes.

MR. LANGMUIR: Q.—In investing in mortgages, I suppose, you sometimes allow an agent to bring in loans and give him a commission on it, too? A.—You mean mortgages without any insurance in connection with it?

Q.—Suppose you decide to invest in an agent's district, and you get a good mortgage offered, and it is through the influence of the agent it comes to you, you allow him a commission? A.—Yes, that would come under the investment department. I

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have nothing to do with that department.

MR. TILLEY: Q.—Is there any understood rule about that, or is it something that each company arranges for itself? A.—I imagine so.

Q.—There could hardly be said to be any definite rule on that point? A.—No.

MR. TILLEY: Mr. Parkes wants to make a statement, and we will be pleased to hear it.

MR. PARKES: Your Honours, I would like to make this statement; that while it is a fact that a large number of agents have got a renewal commission on the renewal business, yet it must be borne in mind that these agents as they get older want an increased income. If they are married men they get an increase of family a la Roosevelt; at least it may be so. They cannot, after they have reached a certain point in writing new business, they cannot increase their new business every year, so that it is necessary for them to roll up an increasing renewal account, in order to get an increased income.

MR. KENT: Supposing there are several agents covering the same district, all trying to roll up an increased business—that is where the rebating comes in.

MR. REID: I did not catch that.

MR. KENT: Where there are several agents for different companies all trying to increase their business in a limited district, I suppose that is where the rebating began and that is where it continues.

MR. REID: I might say if we come to the origin of rebating we have to go back into the dim and misty past. It is of foreign origin, and I presume until about 15 years ago it did not begin to become accentuated as a practice in Canada, but as Commissioner Kent stated, competition, probably, had a great deal to do with the increased practice—no doubt about that.

MR. GEARY: Barring legislation, would the effect of the evidence that has been adduced here, giving notice to the public, be to increase the demand for rebating?

MR. REID: I would say that previous to the investigation, or previous to the revelations in the investigation, where one man knew about rebating, a thousand know about it now. In fact you cannot approach anybody who has not been posted, through the medium of the

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Commission, through the press. They are conversant with the fact that rebating has been practised.

MR. LEBEUF: That is all the better.

MR. REID: That is one of the advantages of publicity. There is no doubt about that, and we have urged publicity. But what we say now as an agency force is this; that, as a matter of self-protection and self-preservation, as a means of procuring bread and butter for the field man, there should be some means taken to stamp out rebating, and we feel, as we suggest—and our recommendations are simply suggestions—that the best means to remedy that is by legislation by the Dominion Parliament, penalizing rebating, as well as a statute by the Provincial Government.

MR. TILLEY: I was going to ask as to the second branch under the heading of Rebating (reads paragraph). You start there by indicating that some condition regarding rebating is to be put into the clause, whereby the company is to get or renew its license. Now is there anything about rebating in the way of a condition that should cancel the company's license?

MR. REID: We felt that we were simply making a suggestion in the direction of penalizing the practice.

MR. TILLEY: But when you come to the end of the clause you simply say to punish the practice. You do not seem to make it a consistent condition all the way through. Did you intend it to be a condition to the company renewing its license.

MR. REID: That is what we intended.

MR. TILLEY: What were you recommending? If a company was found to give any rebate would you cancel the company's license?

MR. REID: I think further on it is stated there.

MR. TILLEY: Why do you put that in connection with the clause about giving the license? Would you cancel the license on that account?

MR. PARKES: I think perhaps I can give a little light on that. As we understand it the legislation with regard to insurance is in the hands entirely of the Provincial Legislature. They enact—

MR. TILLEY: That is as to the contract?

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MR. PARKES: As to the contract and as to everything with regard to legislation, and the only way by which the Federal Government can interfere in the slightest degree would be in attaching it as one of the conditions under which a license would be granted; that a company should in their by-laws, or whatever it might be, in their conditions of contract with their agents, make it an absolute rule that all rebating should be forbidden.

MR. GEARY: That is, you would give them a power by a side wind to put clauses in the contract?

MR. PARKES: Yes. And that condition should also hold the company, the agent and the policy-holders, by which means we would make rebating a crime. The Provincial Legislature cannot make the thing a crime. They can only do what we suggest in the fourth clause, and that is to make the offence punishable by a fine collectable by civil process.

MR. TILLEY: You do not suggest the Dominion Government must go by any roundabout method to constitute anything a crime?

MR. PARKES: As we understood, after very careful enquiry, the only possible way by which it could be brought in by the Dominion would be in the condition under which they granted the license.

MR. TILLEY: Then, if it is brought under that condition, failure to comply with the condition would disentitle the company to a license?

MR. PARKES: Yes, they could have their license cancelled.

MR. TILLEY: If they permitted rebating?

MR. PARKES: Yes.

MR. TILLEY: And what would be the effect on the policy-holders then?

MR. PARKES: I could not tell.

MR. GEARY: How far could you carry that out? You could condition every contract of insurance in that way?

MR. PARKES: No, you could not touch the contract.

MR. GEARY: If you obtained from the Dominion legislation that unless such a condition were inserted in the contract then a license would not issue, you might go to any length.

MR. PARKES: I suppose so. In that case the company could do no business at all unless they fulfilled the conditions of the policy. The cancella-

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tion of the license would not affect the policies already written.

MR. REID: I see the point that the gentleman has advanced, and it was a point present to my own mind. Just how the penalizing could be brought about I am not clear myself. I fancy that possibly goes a little too far.

MR. TILLEY: You refer to the clause in the recommendation?

MR. REID: Yes, but it should be stamped out as strongly as possible.

MR. PARKES: There was another clause added to No. 2, and we struck it out, and that is that the penalizing of the agent and the policy holder should follow certain lines. We were not agreed upon that point, and left it vague, and put in the word "punishable." I might state, not expressing the opinion of the Association as a whole, but as expressing the opinion of a portion of the Association, that the penalty should be a fine on the company, a fine on the agent and a fine on the policy holder for the first offence.

MR. TILLEY: But the policy should be absolutely—

MR. PARKES: Absolutely intact. I think the whole Association as a body would resist every attempt to make the policy itself voidable. It is difficult enough to sell policies without putting a loophole whereby the policy may be declared void.

MR. LANGMUIR: What if the policy holder should rebate?

MR. PARKES: If the policy holder rebates fine him the amount of his rebate.

MR. LANGMUIR: You would not cancel the policy?

MR. PARKES: No, it must be left intact.

MR. TILLEY: Cancelling the policy would be an additional fine on the policy holder, and that would not hurt the company.

MR. PARKES: Cancelling the policy would be penalizing the widow.

MR. TILLEY: And not the company?

MR. PARKES: No.

MR. TILLEY: Because the company would keep the premiums and not be liable on the policy?

MR. PARKES: Exactly.

MR. GEARY: Can you from your actual experience—and you have had experience in the field or know of it—say that the majority of those persons insured understand the terms of their

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contract? Do they understand exactly what the money is used for and how it will come back to them?

MR. PARKES: Well I think so. With the majority of men, speaking from my own personal experience, I invariably take the contract and read it over with my client, and I show him exactly the point where he stands, and how he stands, and what remedies he has in the future in the event of any misfortune overtaking him. But as to whether the generality of the public can understand the policies when they read them, notwithstanding all the efforts that are made by the head office to make the policy as clear and concise as possible, I must leave the public to judge.

MR. GEARY: You find a great many complaints from your own experience of persons who compute the total amount of the premium they have paid in at a certain percentage, and wonder why they don't get that amount back?

MR. PARKES: Exactly.

MR. GEARY: Not understanding the cost of insurance?

MR. PARKES: No.

MR. GEARY: Do you suppose it would be of any use to recommend that the make-up of the insurance premium be placed before the assured, attached to the policy itself, so that he could never make such a claim?

MR. PARKES: I scarcely think that would do. I do not know whether you could get that. That is an actuarial problem. You have the net premium and the loading.

MR. GEARY: It would have to be put very simply.

MR. PARKES: Yes.

MR. REID: I would say that on the back of all the modern policies there is a guaranteed value. The evolution is towards the perfect policy, and during the twelve years I have been in the business I have seen an evolution. On the back of the policy there is a guaranteed value which enables the assured to turn over his policy and see where he stands with the company.

MR. GEARY: The tendency now is to compel very full disclosures, in our province at all events.

MR. PARKES: Yes.

MR. GEARY: And I thought with regard to the money paid for premiums that the matter might be placed clearly before the policy holders. Time and again we have received complaints, and the majority of the peo-

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ple making complaints are paying the whole premium and computing it at a rate of interest, and wondering why they do not get the whole thing.

MR. REID: That involves actuarial calculations that the public do not understand, but I think the modern policy contract is so framed that he who runs can read. I think it is very plain.

MR. GEARY: We were told by one man in the insurance business that he thought where ignorance was bliss it was folly to be wise.

MR. PARKES: I think the more intelligent the man with whom you are discussing insurance is, the more readily he will admit that a certain sum must be set aside each year on the policies, and he will say "I am willing to put up a certain amount each year, which I will write off each year"—

MR. GEARY: I am quite sure a man of your resources should be able to frame a statement to be placed on the policies, roughly stating as to what is supposed to come of that premium.

MR. PARKES: I am highly flattered by your opinion of me and I will endeavor to frame some such clause, and send it in to our head office, to see if they will adopt it.

MR. REID: Whatever doubt there may be as to the conditions of the policy, there can be no doubt as to the value of the policy from year to year.

MR. PARKES: There is a suggestion here that would perhaps answer Mr. Geary's question. Take a twenty pay life at age 35, premium \$38.15, in ten years that man will have paid \$381.50. Right on his policy there is written the amount of the cash value of the policy, which would be \$256. He has paid in \$381, and he can draw out \$256, and the difference would be \$125, which it has cost to carry the policy, \$12.50 per year for \$1,000, and that is endorsed right on the policy.

MR. TILLEY: What you suggest is that that tells him as plain as anything can tell him that his insurance is costing money?

MR. PARKES: Yes.

MR. TILLEY: And how much it is costing?

MR. PARKES: Yes.

MR. PALMER: I would like to say that I think very often the public are themselves to blame for getting something different from what they really thought they were getting. I

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will just cite one little case to illustrate my meaning. I very prominent lawyer in Montreal, and a merchant in Vancouver, both took \$5,000 policies, and through a mistake in the office they were placed in the wrong envelope. John Brown got John Smith's policy, and Smith got Brown's policy. They both paid for them at the time, and months afterwards when John Brown went to look at the policy he found he never had a policy. That is the case with this lawyer in Montreal. Perhaps you all know about it.

MR. LEBEUF: They are all like that.

MR. PARKES: But in that case it was the agent's fault.

MR. PALMER: No. If a man is going to buy a piece of property worth \$1,000 he takes more trouble to look after the title than he does to examine his policy. In nine cases out of ten it is the insured's fault and not the fault of the agent.

MR. LEBEUF: When a man gets a policy he does not take the trouble to go over it. He thinks the agent has done his duty and places the policy in his safe and waits until the end of the year. I know as a fact that people do not look at their policies.

MR. REID: There is some excuse for a busy man in a case of that kind. The agent should examine his policy closely and do his business so correctly that there is no possibility of mistake. There is no excuse for the agent.

MR. LEBEUF: He is paid for doing that work and the man who is being insured is not.

MR. PARKES: That is another reason for the existence of our Association. We want to insist that the people shall be educated, and if a man says to me "Oh, well, I am too busy to look at that now," I will say, "All right, I will be in to-morrow." And I will insist on his looking over the policy for my own protection, to show him that he has got what he paid for.

MR. GEARY: With reference to the examination of agents, in the case of some agents you would have to have a period of probation?

MR. PARKES: Yes.

MR. GEARY: And he would have to run loose during the probation?

MR. PARKES: It would have to be something like that.

MR. TILLEY: You recommend that the power to give the license or certificate, whatever you call it, be in the hands of some association of

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agents, and you do not recommend that any license or certificate shall be obtained from say an insurance department. Has that been considered?

MR. PARKES: That has been considered but we came to the conclusion that the agents as a body incorporated would protect their own interests more efficiently than a governmental department would.

MR. TILLEY: And what about the public?

MR. PARKES: And that therefore the public would be protected in the same way.

MR. TILLEY: The interests of the agents are identical with the interests of the public?

MR. PARKES: I think you must admit that as a rule.

MR. LANGMUIR: What qualification would you exact? Eloquence?

MR. PARKES: Well, they have to have a certain amount of that or else they would not get on at all. But at first the conditions of obtaining a certificate would have to be not too difficult, until probably two or three years had elapsed, and then the conditions could be made more onerous.

MR. REID: I would suggest that under such an arrangement—that is with the issuing power vested in the council, if you chose to call it that—the same *modus operandi* is obtained with regard to the other provisions; there would be this accomplished: In the great rush for organization competition has induced a lot of bad men to be placed in the field. Now, this council would exercise discriminating judgment to the extent of keeping these men out, and I think it would be in the interest of both the public and the calling if that were done. Speaking of governmental license, at one time there was a license required by the Provincial Government. That proved a failure for this reason: that the licenses were given so indiscriminately that it really did not protect anybody. I know of cases where the license was used as a means, shall I say, of whipping the devil round a stump, just in the direction of rebating, but if you vest the power of issuing certificates in a council composed of the best men in the calling, men who would have a desire to train up the calling in the positions they should occupy, it seems to me a good result would be obtained.

MR. TILLEY: Is it not going pretty far to say that a person shall

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not be allowed to solicit insurance unless he is passed by your council, making it a close corporation in that way? Would it not be going far enough to give that man who passes your examination and takes his certificate or diploma from you the right to have some distinctive title, as is done in the case of accountants? Are you not going rather far when you suggest that it should be made a close corporation to that extent that no person else can solicit insurance, because it is not a business that requires years of training, or that the public are in much danger from a person without a scientific knowledge.

MR. PARKES: That is one of the legal objections that has occurred to my mind.

MR. TILLEY: That is not legal.

MR. PARKES: There is a legal technicality there.

MR. TILLEY: You mentioned accountants this morning?

MR. PARKES: Yes.

MR. TILLEY: The accountants are not allowed to say that any person who is not a member of their society or who has not one of their certificates cannot keep books or be an accountant?

MR. PARKES: No.

MR. TILLEY: But he shall not have certain distinctive titles that they grant.

MR. PARKES: That is it.

MR. TILLEY: Chartered accountant or something of that kind.

MR. PARKES: Yes.

MR. TILLEY: Does your memorandum recommend that you should be put on any higher footing than that? Would that be sufficient for your purpose?

MR. PARKES: I think it would. The issuing body could not very well bar out men on any close corporation basis.

MR. TILLEY: What you say here is "and without which no agent shall solicit insurance or collect commission." I suggest that that is going very far. Do you mean that absolutely?

MR. PARKES: We mean that each man in the business shall be articulated as a member and hold a certificate issuing from this body.

MR. TILLEY: Would it not be sufficient to say that he shall not describe himself as a member of your association unless he has one of your certificates? Would that not be far enough?

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MR. REID: I do not know that it would be far enough.

MR. PARKES: I would like to indicate—and this will partly meet your objection—the views we hold at the present moment, and the mode of procedure that we think of adopting with regard to incorporation; that we would start in connection with our incorporated society an information bureau and an anti rebate bureau. The information bureau and the anti rebate bureau would be under the charge of the secretary of each local centre. When a man had done anything in soliciting insurance which was either against the law or against the etiquette of the profession, serious enough to warrant his being registered, his name would be registered with the secretary, not describing what he had done or the crime he had committed, but he would be simply registered.

MR. TILLEY: Blacklisted.

MR. PARKES: Then if John Jones applied to you for a job as an insurance man you would telephone the secretary, and he would say, "He is blacklisted by Mr. Parkes." You would at once ask him, "What was the trouble with Jones," and I would say, "Well, such and such a thing occurred." That man collected a premium and never turned it in."

MR. TILLEY: Do you suggest that man should be kept on the blacklist. Do you really suggest that legislation like that should be passed?

MR. PARKES: I should go so far as to say that a man who had broken the rebate law when it was passed, should be fined for a first offence, and for the second offence his license should be cancelled for twelve months.

MR. TILLEY: Would it serve your purpose to have the incorporated body able to grant some certificate giving this agent some distinctive title which a man would be penalized for using if he was not entitled to it?

MR. PARKES: That would about meet the difficulty, something like chartered accountants and architects.

MR. GEARY: How would that meet the difficulty?

MR. PARKES: It would to a certain extent.

MR. GEARY: I do not see how. It is a matter of common knowledge that there are insurance agents and insurance agents and some have letters after their name and some have not.

MR. PARKES: We believe all the agents of standing would come into

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that corporation, and a man who had not a certificate would not be employed.

MR. GEARY: If John Jones, who was never heard of before, walked into an insurance office with a risk, can he get a commission for that?

MR. PARKES: I shall have to refer that to the manager.

MR. GEARY: I suppose none of you gentlemen know that?

MR. PARKES: That is not my business.

MR. TILLEY: The managers can speak to that better?

MR. PARKES: Yes.

MR. REID: I may say that in twelve years that I have been looking after life insurance business in this country but three parties have walked into the office and voluntarily offered themselves.

MR. GEARY: That is not the point.

MR. PARKES: He is speaking of some man offering a policy on another man's life.

MR. GEARY: Supposing I wanted insurance, and supposing instead of going to the head office I went to a friend and said, "Take my application to the office and they will give you a rebate on it." Would a person going into the office with a proposition for insurance on another man receive a commission?

MR. MCGREGOR: I think he could.

MR. PARKES: John Jones walks into the office and says, "I will bring you an application from John Smith if I can get a commission."

MR. GEARY: Yes; you would accept him as an agent?

MR. PARKES: I think, under existing conditions, most of the officials would do that, and that is what we want to reach.

MR. COX: The risk would be accepted provided we could assure ourselves that an agent of our own company has not canvassed the business.

MR. GEARY: You protect your own agents?

MR. COX: We protect our own agents. Very often solicitors in the course of their business may be putting through some business for a client where life insurance is necessary. In cases like that they will send in an application.

MR. PARKES: He could not get his commission under this incorporation.

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MR. LANGMUIR: You would immediately constitute him an agent.

MR. COX: In England a large amount of their business is done in that way by the attorney, and they get a commission for it.

MR. LANGMUIR: There is one company where it all goes over the counter.

MR. COX: The Equitable and the Clergy.

MR. LANGMUIR: Another one still, where everything goes over the counter.

MR. TILLEY: Is there anything more that any one desires to say about this clause as to incorporation?

MR. LANGMUIR: There is one thing, and it is this: I see that you recommend the continuance of the submission of estimates. I suppose you all admit that they have been extremely defective and deceptive in the past.

MR. REID: We must make that admission unfortunately with regard to some of the estimates that have been submitted to the public.

MR. LANGMUIR: What necessity exists for the continuance of the submission of these estimates?

MR. REID: The necessity exists to this extent, that the public ask for them, and as is indicated there estimates are given with regard to any business proposition or any enterprise.

MR. LANGMUIR: That is in all private enterprises?

MR. REID: Yes. What we believe is this: That if these estimates are safeguarded by being published and filed in the department, that is an advantage, and it is better that it should be done in that way than to permit an agent to give estimates to people.

MR. LANGMUIR: How many estimates have been realized in the last few years?

MR. REID: I may say that I have personally paid matured endowments on term life policies over and over again where the estimates have not only be realized, but exceeded. I am speaking of my own company, but cannot say of the estimates generally.

MR. KENT: That is one very important point. If the agent really knows what the policy should realize, and tells the party to be insured, it is a great advantage. Where an

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agent does not know anything at all about what the profits are, and gives an estimate simply to deceive the policy-holder, that is very wrong, because it is obtaining money under false pretences. No agent will ever admit that he does not know anything at all. The ordinary life insurance agent knows everything; therefore, the public looks to him for knowledge and if he lays claim to knowledge he does not possess he is a fraud. That seems to be clear enough, and that supports the desire of the agents here present to have some sort of a corporation, so that if any of their number made false reports to the intending policy-holder he should be brought to book, because in the past very few agents bother themselves to ascertain whether their estimates are true or not. They want to get a premium, and they do not care much what becomes of the policy-holder after that.

MR. REID: Don't you think you are a little hard when you put us all in the same boat? There are agents and agents. I submit that there are many many agents who have just as ardent a desire as the public have that these estimates should be realized and what you have stated is correct. The object of our corporation is to that end. We desire to have estimates prepared upon actuarial lines presented to the public, and we also go further than that and desire that these estimates should be furnished to the department so that the department can keep track of the company and keep a check on the company as to how they are carrying out these representations, because I agree that in any case in the past—and there have been such cases in the past—where insurance has been secured by improper representations as to the earning power of the policies, it is wrong.

MR. KENT: I would have been pleased to have heard to-day one or more agents representing the worst feature of the profession. I do not suppose there is any gentleman present who will plead guilty to rebating, or having lied to his intended insurer, or anything that is wrong. The gentlemen present, I am quite sure are gentlemen who have never done anything of that kind. Therefore we cannot get at the reason for the wrong-doing. We are compelled to preach to you gentlemen, because the parties that I would like

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to reach are certainly not here. Those who have been concerned in any wrong-doing are not here to-day, I am sure. Therefore I have to reach them through you gentlemen. Sometimes I spoke as if you had been guilty of wrong-doing yourselves, but you can pass it along to those that you know are guilty.

MR. LANGMUIR: The fear I had was this: That in giving estimates and speaking of the rate of interest, it might be an incentive to enter upon speculative investments, in order to keep up the estimates. That was the fear that was present to my mind. Does it appear that there is any reason for that suspicion?

MR. REID: I think, sir, if it were known to the company that these estimates were to be checked in the future by the department, and kept track of in the closest possible way, that in framing these estimates due allowance would be made for the contingencies of the future, and I may say, as a matter of fact, that the estimates under which we are working, and the estimates we are presently laying before the public, are, I believe, so conservatively safe that at the end of the policy term, if the policy-holder will be surprised at all, he will be agreeably surprised and not disappointed. I say that as one having had experience of accountants' work for nine years previous to going into this work.

MR. TILLEY: Is there any conflict between the clause relating to publicity and annual accounting under the head of commission, and the clause under the head of deferred profits, where you say that you doubt the wisdom of annual accounting of profits to the individual policy-holder, and under subsection M, under the heading commission, you say there should be complete and full publicity with annual accounting.

MR. PARKES: On page 6, under the head of commissions, clause M., the annual accounting there does not refer to dividends.

MR. TILLEY: Does not refer to profits?

MR. PARKES: Does not refer to profits or dividends. That refers to the annual accounting to the department, and all the work of the insurance companies, including the cost of new business and the cost of taking care of old business for the year, and on page 11 the matter has reference

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to the profit and deferred dividend policies. "It is not unreasonable to require a quinquennial accounting every five years of the amount of profits put on one side to the different classes of policies." Then in the next clause, an annual accounting of profit for the first five years on each individual policy and with an approximate profit. You see the distinction?

MR. TILLEY: Yes.

MR. GEARY: Your paragraph as to publicity on page 14 refers to the annual returns and not to the annual statements issued by the companies to the public?

MR. PARKES: No, just the government returns.

MR. GEARY: Don't you think, or do you think, that in submitting your annual statement to the public it would be well to take out of what you carry as floating surplus and show how much of that you are holding to the credit of deferred dividend policies. It is not done as a rule.

MR. PARKES: The question was raised with regard to the annual statements of the companies that are brought before the public, but we could not arrive at a general agreement as to what was wise under the circumstances. Therefore, we did not express any opinion on that point. But we are not here except as an association.

MR. TILLEY: You are not agreed?

MR. PARKES: No, some want this and some want the other, so we struck that out of it.

MR. TILLEY: I do not know whether your Honours have any further questions or whether the agents wish to say anything further.

MR. REID: There was a question raised this morning with regard to the expense ratio of the companies or the reduction of expenses, I forget by whom, and I think I may take it upon myself that legislation would increase the cost. Now what I meant by this was that in New York state, where the Armstrong legislation has been enacted, the prospect is that a large number of the agents will have to leave the business. If that is the case the business is going to come in in less volume and the business that does come in will be a different class of risk so far as the selection is concerned. There will be a higher rate of mortality and there will not be the savings from the mortality to offset the expenses. I should also gather from some remarks that were made, I think by Commissioner Kent, that

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possibly the agents, to some extent, were the cause of the increased cost. I have in my hand a circular here, and it states, "It may be supposed that companies who do not pay commissions can insure cheaper. This is not so." (Reads circular.) That is why I say that if the legislation was so restricted as to limit the companies in regard to their expenses and investments it would have the effect here stated. That has been the effect with the two companies in the old country who have no agents employed.

MR. KENT: Perhaps those who pay no commissions make larger payments in some other direction, which largely balances the payment of commissions.

MR. REID: They do not employ agents at all. They take the business over the counter.

MR. KENT: If it does not cost them anything for the agents, they must make a saving, unless there is some other corresponding outlay in another direction..

MR. PARKES: I cannot say as to that, but \$34.25 is their average as against as low as \$27.50.

JUDGE MACTAVISH: Have you anything further to-day?

MR. TILLEY: I think there is nothing further to-day. I think it is quite within the realm of possibility that the agents may as a result of the discussion to-day desire to appear and say something at a later date, or submit some other memorandum. The managers will be in attendance at some date before the commission, and if the agents agree to be here at that time, or wished to add anything to what they have said, I am sure the Commission will be very glad to receive it at any time.

JUDGE MACTAVISH: Yes.

MR. KENT: I do not know if it has been discussed before the Commission, but I would like to ask, is rebating in the main due to the initiative of the prospective insurer? Is it due mainly to the agent or is it due mainly to the company?

MR. REID: Mr. Cox has just suggested that he could make a statement on that very point.

MR. COX: I just wish to say that I do not think the blame all attaches to the agents. Something was said along that line while you were out of the room. There are cases, no doubt, in which the agent, in order to get the business, for some special

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reason, offers a rebate. There are, no doubt, instances in which an agent is canvassing a prospect, and the prospect is not ready to take his insurance for three or four or six months, and in order to close up that business at once, the agent will say "You give me the application and I will give you so much off your premium." There are, no doubt, instances of that kind. On the other hand there are many instances where the agent does not want to give a rebate, and has to give it where it is demanded of him, where the insurer has been offered it by some other agent, or possibly a year or two years ago, as the case may be, he may have taken a policy from an agent who has given it to him, and he has come to expect it. Then on the other hand, this year, since this matter has been given a little more publicity, the public are looking for it now.

MR. KENT: I suppose in the future it will be like Castoria, they will all cry for it.

MR. COX: They will all cry for it, unless there is some provision made to stop it, and whatever legislation is brought forward should take the form of penalizing the applicant as well as the agent. I do not think there is any doubt about that, because the average agent may not be strong enough to withstand the temptation. He thinks he is going to lose the business by not giving something, and it is not fair that the agent should have to suffer for it.

MR. KENT: One manager who had been an agent himself, said that the fault was mainly due to the agents. If they did not crowd the agents so much, he would not rebate, and therefore, although the agent gave the rebate, he did it at the instigation of the company, and that in three cases out of four it was the company that should bear the blame. Of course it is difficult to ask any explanation on that point. You represent a company that possibly does not find it necessary to give any rebate, but perhaps there are some other gentlemen representing smaller companies that might elucidate that point a little.

MR. COX: I do not think there are any of us who can say we have never given any rebate. It has been done, and will be done so long as there is not some adequate protection against it. One man in the field will give it, and another man, in order to make his living, has got to

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(Discussion.)

give it. A man canvassing actively every day for business has under present circumstances to give away a part of his commission, in order to make the other portion for himself. If he refuses to give it somebody else will give it, with the result that he is not making any income.

MR. KENT: He has got to fight the devil with fire.

MR. HAYCOCK: In regard to what your Honours have said with reference to head offices influencing agents to grant rebates, I may say that in an experience of over thirty years that never in any way or direction whatever has the head office of my company, or the head office of any company that I know of, ever influenced agents to give people rebates.

MR. LEBEUF: But don't they tell them "We are getting near December now and you had better see that all the agents and sub-agents bring in plenty of business?"

MR. HAYCOCK: I think that applies to every branch of trade.

MR. KENT: We have seen cases where the president or vice-president, or some high official is going to celebrate the fiftieth anniversary of his entry into insurance life. What finer testimonial could be given than to present him with \$50,000 or \$100,000 of new insurance. Let every agent put his shoulder to the wheel, it can be done if every agent will do his share. I think that kind of thing is highly productive of rebate.

MR. REID: We have known of that parade with regard to other companies, but not insurance companies.

MR. KENT: You have never heard of that in straight line insurance business?

MR. MCGREGOR: Not on this side of the border. I have heard a good deal about it through the press on the other side.

MR. PALMER: I think a law is necessary. It is natural for the public to buy in the cheapest market. You cannot blame anybody for wanting to get insurance as cheaply as possible, and the only way to stop it is to pass a law prohibiting it.

MR. KENT: It is quite clear that rebating is an injustice to everybody.

MR. GEARY: Not if everybody gets it.

MR. KENT: If I get something to which I have no right, I am unjustly benefitting to the detriment of my neighbor. It is a fraud on the body

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politic. It is a fraud even to the man who gets the rebate himself; because he is getting something to which he has no legal right. He feels himself degraded in his own estimation, so that he is not benefitting really by it.

MR. TILLEY: We propose that your Honours should adjourn now. We had intended having the Managers Association here to-day, but for reasons we thought it better not to have them at such an early date, and I do not know what I will have to present to your Honours to-morrow, but perhaps your Honours will formally adjourn now until to-morrow.

The Commission adjourned at 4.30 p.m. on November 8th, till 10.30 a.m. November 9th, 1906.

NINETY-SEVENTH DAY.

MORNING SESSION.

Ottawa, Ont., November 9th, 1906.

At 10.30 a.m., the Commission met and discussed various matters concerning the Report. At 12.45 adjourned to 2 p.m.

The Commission met at two o'clock, when a similar discussion took place and then adjourned to 12 noon, on Monday, 12th day of November, 1906.

NINETY-EIGHTH DAY.

MORNING SESSION

Ottawa, Monday, 12th November, 1906.

The Commission met at 12 noon, pursuant to adjournment, and adjourned until 4.30 p. m.

AFTERNOON SESSION, 4.30 p. m.

MR. TILLEY: We expected that the Managers' Association would be ready to have representatives before your Honours before this hour, but information has been received that they have not yet finished their discussion and they desire that they shall be heard at 8 o'clock this evening, if your Honours will be willing. Then, for the present, the Hon. Mr. Roblin is here and the Hon. Mr. Campbell, of Winnipeg. I understand that they de-

Hon. Rodmond P. Roblin, Ex'd.

sire to give some evidence regarding evidence already given. I will call Mr. Roblin first.

HON. RODMOND P. ROBLIN, sworn. Examined by

MR. TILLEY: Q.—Mr. Roblin, you were the beneficial owner of the lands that stood in the name of Mr. Whitla and were sold to the Union Trust Company? A.—I was.

Q.—What were they called? A.—The Swan River lands.

Q.—You have read the evidence that was given by Mr. Whitla and Mr. Pritchard, have you? A.—I have.

Q.—Regarding the transaction with respect to those lands. And you have something that you would like to say regarding their evidence, have you? A.—Nothing as regards Mr. Whitla's. It is just as I understand it. Mr. Pritchard's however is incorrect in some particulars.

Q.—In what particulars? A.—For instance he says that I knew that Mr. Foster had bought 40,000 acres of land from what we called the Bettes lands.

Q.—That is the Carrot River lands, we have been calling them. A.—Yes, I never knew that a sale of that kind had been made until I read it in the newspapers as a report of the evidence brought out at this Commission. Never knew there was such a transaction. Never heard of it.

Q.—Did you know Mr. Pritchard had effected a sale to Mr. Foster of any lands? A.—Never.

Q.—Or to the Union Trust Company? A.—Never, never knew he was operating in lands at all.

Q.—Then was there any suggestion that Mr. Pritchard should see Mr. Foster? A.—None.

Q.—Did you instruct him to come to Toronto to make a sale? A.—Never.

Q.—Then state to the Commission please, how it came that he was offering your lands to Mr. Foster. A.—It is not necessary for me to recount how I became possessed of these lands, I suppose?

Q.—No, it is in connection with the transaction in connection with the Union Trust Company. A.—Mr. Pritchard had a dual position; he was accountant of the Department of Agriculture and was also Private Secretary to me. He knew that I owned these lands, by virtue of seeing the mail, and of handling my letters and in taking some that I was writing regarding them. After I had failed to make a sale in the United States

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through an agent that I sent there, a Mr. Farrell, who did not succeed because we could not give a satisfactory title.

Q.—By reason of what? A.—Because they wanted a registered document. We had not anything but an agreement and no solicitor there would accept that, so that Mr. Farrell was obliged to return. When Mr. Pritchard was going on a holiday he said to me, "You have not any objection, I suppose, to my making a sale of these lands if I can?" "Oh," I said, "certainly not." And I never heard anything more about it, until he came in one day and said that he had sold them. That is all I know about it.

Q.—Then at what price did you authorize Mr. Pritchard to make a sale? A.—I had two prices. The same always and to everybody. \$5 cash, net to me, and \$6.50 on what we call a time payment. 25 per cent. cash and 25 per cent. running over three years, the balance of the principal.

Q.—That is to say over the amount payable, in addition to what was due the original vendors? A.—And they assume the contract.

Q.—Then if your profit, so to speak, was paid over a time you wanted \$6.50? A.—\$6.50.

Q.—That was extending over three years? A.—Over three years.

Q.—A quarter being paid cash and the balance? A.—One to three years. Quarterly payments.

Q.—If the amount due you was paid in cash you accepted \$5 an acre? Instead of \$6.50? A.—\$5, yes. I wanted money.

Q.—Then how long had you been offering the lands on those terms? A.—Oh, a year or more.

Q.—Was Farrell offering them at that price? A.—Yes, my agreement with Farrell and all the real estate men I gave them to was this—and Mr. Pritchard was well advised of that—that I would protect them in any amount or any sum that they sold these lands for above my figures. That is to say, if they got \$6 cash I would protect them by making transfer on a \$6 basis and giving them the \$1. And if they sold them for \$7 or \$8, whatever they could get, I would make the transfer on that basis and pay them the excess over \$6.50. They had to get their commission above my price.

Q.—Did you have the lands in the hands of a gentleman named Hamilton? A.—Yes.

Q.—For how long had he been trying to sell them? A.—I think he must have had them a year and a half or two years.

Q.—Was he trying to sell them on the same terms? A.—Yes.

Q.—During the whole of that period? A.—The whole of that period.

Q.—Mr. Pritchard stated that he had authority to sell the lands at \$5 and get his commission from that price? A.—Never from me.

Q.—You never authorized any person to sell them at that price? A.—No.

Q.—Then what price did you authorize Mr. Pritchard to ask for the land? A.—The same. \$5 and \$6.50. Those were the prices.

Q.—On which basis did you ultimately close, that your profit was being paid in cash? A.—All cash.

Q.—Or over time? A.—All cash.

Q.—So that you regarded it as a sale at \$5 net? A.—Net.

Q.—Then when Mr. Foster made you that offer, he was offering you your own price? A.—Well, I never knew Mr. Foster in the transaction at all until I got my money and the deal was closed.

Q.—Didn't you see the correspondence that Mr. Pritchard had with Mr. Foster? A.—I did not. I didn't know he was corresponding with him until he told me he had effected a sale.

Q.—Then you knew it at that time? A.—Yes.

Q.—And he handed you the correspondence then, I suppose? A.—No, there wasn't any that I saw.

Q.—Mr. Whitla produced correspondence with Mr. Pritchard. Mr. Whitla would be acting for you? A.—That may be, because the lands were in Mr. Whitla's name, and I hadn't anything to do with the transferring and I just told Mr. Whitla over the telephone that the lands had been sold and Mr. Pritchard would give him the instructions as to how the transfers were to be made. I said, "I have got my price."

Q.—Mr. Whitla seemed to be in doubt whether it had been done in that way or whether you had brought in the papers to him? A.—No, I never had any papers. Never had a word of communication with Mr. Foster, direct or indirect, nor with the Union Trust Company.

Q.—How do you think it came that Mr. Foster when writing Mr. Pritchard on December 23rd, 1903, said, "I have talked the matter of these

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lands over with some parties; the price is too high as it was asked and I can get no one to take any interest at any such price." And then he goes on and offers \$5.25, with 25 cents commission, producing the very price that you say Mr. Pritchard was to ask? A.—Well, that may be, I cannot tell what Mr. Pritchard told him.

Q.—Mr. Pritchard says he was asking Mr. Foster \$7 under your instructions and this is his counter proposition? A.—Well, I am telling you Mr. Pritchard is incorrect, absolutely incorrect without any doubt about it.

Q.—You would agree with this that this seems like a counter proposition from Mr. Foster, offering less than Mr. Pritchard was asking? A.—Mr. Pritchard, if you knew him as well as I do, you would understand how Mr. Foster might have said that.

Q.—You mean to say that Mr. Pritchard might be asking more than you authorized him to ask? A.—Yes, he might; would. Has done many things that to me seem very strange.

Q.—Then you suggest that Mr. Pritchard, although specially instructed by you as to price, was asking some higher price? A.—If he got any commission out of it he would have to, because my price was \$6.50.

Q.—Over time, and \$5 cash? A.—Yes.

Q.—Then when you told Mr. Whitla to close the transaction, what communication had you had with Pritchard up to that time, after his return? A.—None, other than he came in and he asked me if the lands were sold. I said, "No, I haven't sold them." "Well, he says, I have a purchaser," I said, "All right, glad of it. Close it up." It was all over as quick as that.

Q.—You did not discuss terms at all? A.—He said he had got my cash price.

Q.—Was that all he said? A.—That was all.

Q.—He goes on and in the reply, which is written on your letter paper, apparently, at least the copy of it is on your letter paper, handed to us by Mr. Whitla, the letter proposes a rearrangement of terms and Pritchard says, that letter was dictated by you and signed by him? A.—Well, I say it is absolutely untrue.

Q.—See what he says: (reads from "as I pointed out when I saw you in Toronto" to "I trust you will be able to meet me in this slight change.")

So that your profit was not being received all in cash? A.—Yes, I got it all in cash, that was my instruction to Mr. Whitla.

Q.—But that could not be so because this proposition involved 75 cents in three months and 75 cents in six months? A.—Well, the arrangement was just to leave it until he could buy the whole equity and make one transfer of it.

Q.—Then he was given time to that extent? A.—Well, I was glad to sell the land and I called it cash.

Q.—But there was a modification of the arrangement? A.—Well, that was Mr. Whitla's part. I told Mr. Whitla to close the transaction.

Q.—Then you must have known these terms before you told him to close? A.—No, I never heard the terms until now. Never heard those terms until now.

Q.—You say then these terms were fixed by Pritchard or Whitla? A.—Whitla was acting for me.

Q.—Who fixed the terms? Whitla says he did not? A.—Well, I did not, because I never had a word to say.

Q.—Would Pritchard fix these terms without consultation with you when he was right in your office? That does not sound very probable? A.—That was considered to be cash.

Q.—By whom was it considered to be cash? A.—By Mr. Whitla and myself, I presume.

Q.—Then it was communicated to you and you accepted these payments? A.—I accepted what the offer was at that time.

Q.—No, it is not quite what the offer was, because the offer was \$1.25 to be paid to you and \$1 in say four months, the remainder in four yearly instalments. That was the proposition. Mr. Pritchard makes a change; he wants 75 cents in three months and 75 cents in six months over the amount payable to the original vendor. Do you say he made that change in the proposition without consultation with you? A.—Yes, I say that, so far as the terms are concerned and the cash payments, I turned that over to Mr. Whitla and I said, "You close it up as quickly as you can."

Q.—Then, did he have that general authority that he could make an alteration in the terms? A.—I gave the instructions to Mr. Whitla.

Q.—Mr. Whitla denies that he settled the terms. A.—Well, the terms were what we called cash.

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Q.—At any rate you cannot give any further information as to the conversation you had with Mr. Pritchard than what you have given us? A.—No further than he said he had made a sale and I accepted it.

Q.—And you say that while in your office as your private secretary he would write this letter of the 28th December, 1903, without consultation with you? A.—Yes, he wrote many of them. I did not know he was corresponding at all until it came out.

Q.—You had to wait six months in order to carry out that transaction and treat it as cash? A.—No, I don't think it was that long.

Q.—How long was it? A.—I couldn't say, but I don't think it was six months. It was quite a while because I protested to Mr. Whitla. I thought the delay was his.

Q.—What did he say? A.—He said that he was doing the best he could.

Q.—Did he say the delay was his or yours? A.—Well, there was nothing for me to do because I hadn't anything other than to take the money when it was paid over.

Q.—Now, as a matter of fact, the agreement was dated right in the same month of December, 1903, and the agreement provided for the payments to be made at a later date, so it was not left standing until the cash was all payable, but an agreement was signed at once. A.—Well, I didn't know there was an agreement, even. I never knew there was an agreement before until now. If there was one.

Q.—Of course you gave Mr. Whitla instructions to enter into an agreement or he would not enter into one himself? A.—No, I didn't know there was an agreement until now. If there is one; if you have one there. If you say there was one, I would say it was the first I ever heard of it. You are sure there was an agreement?

Q.—Oh, yes; here is the agreement. A.—Well, I never knew there was before.

Q.—That was with the papers you saw before. A.—I hadn't looked any of these over. Well, I never knew there was an agreement before. I thought all that was done was, the assignments were made for the various quarter sections and the money paid over. That is what I supposed—

Q.—Did you ever quote \$7 an acre to any person? A.—No. \$6.50. That is, without paying commission.

Q.—\$6.50 without paying any commission? A.—Yes.

Q.—Did you ever quote \$7 and pay a commission? A.—Not that I remember of.

Q.—Would you say you never did? A.—Not to my knowledge. I don't think I ever offered the lands myself directly to anyone. I always placed them in the hands of real estate people.

Q.—I suppose that would follow because your name does not appear in this transaction at all. And your communications, except probably with Mr. Pritchard, would be carried on through Mr. Whitla? A.—No, never did it through Mr. Whitla either.

Q.—With whom? A.—I would go direct to Mr. Hamilton or Mr. Gallagher, or whoever the agent was, and say I have these lands and my prices are so and so. We sold, I think, a half section, if I remember correctly, no, a quarter section.

Q.—Mr. Pritchard stated that he was authorized by you to offer a substantial commission to Mr. Foster when he was proposing to make the sale. A.—I never knew he was negotiating with Mr. Foster.

Q.—Then let us say with the person with whom he proposed to negotiate. A.—Well, I never authorized him to offer a commission to anyone and the only time, as I say, that he ever discussed it with me, was when he asked me if he might, when he was going east, offer these lands, because I didn't know he was in the real estate business at all.

Q.—Did he make any demand on you for a commission? A.—No, never.

Q.—Did you ever pay him a commission? A.—Yes, I gave him \$500.

Q.—When? A.—After the matter was closed up.

Q.—Was that in pursuance of some demand made by him, or request? A.—Yes.

Q.—What demand did he make? A.—Well, he said he thought he was entitled to something, and I said to him, I think, "Didn't you get a commission out of it?" "No," he says, "I didn't get anything." "Well, then," I said, "I certainly will pay you for any time you may have spent on it," and I gave him \$500.

Q.—Was there any dispute about the amount? A.—No, there was not

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anything said. I just wrote him a cheque and gave it to him.

Q.—Did he ask for more than \$500?

A.—No, he never stated any amount.

Q.—Did you at any time refuse to pay him anything? A.—No, he asked me one day if I didn't think he was entitled to a commission, and I said, "You know my price was a net price." "Well," he said, "I haven't made anything out of it and I have effected this sale, and I think I am entitled to something." "Well," I said, "I will think it over." And I did, and I gave him \$500.

Q.—Did you ask him whether any commission had been allowed out of the sale? A.—He told me he had not made anything.

Q.—Did he say a commission of 25 cents an acre had been allowed? A.—He told me, or Mr. Whitla told me, I am not sure which, that the lands were being transferred on the basis of \$5.25 an acre.

Q.—What did you understand became of the other 25 cents? A.—I didn't know, I supposed Pritchard got it until he told me he did not.

Q.—Then did you find out who got it? A.—No, I never asked. I didn't know.

Q.—You were told by Whitla that the sale was on the basis of \$5.25 an acre? A.—Yes, I think it was Whitla.

Q.—And you did not make any inquiry to find out where the 25 cents an acre went? A.—No, because it was always understood between myself and anyone who was offering these lands that I would protect them. That is to say I would make the transfer for any amount above my price that they might sell for, and they could have it.

Q.—But Mr. Pritchard was demanding a commission from you and you were objecting to pay it and here was 25 cents an acre? A.—I asked him and he said he didn't get a cent out of it.

Q.—What did he tell you became of it? A.—I don't think I asked him.

Q.—Do you mean to say you did not pursue it further than that? A.—No, I haven't any interest in it.

Q.—You had an interest in it, if that commission had gone to remunerate an agent? A.—No, because I had received my price.

Q.—And your price was to be net without any commission? A.—Yes.

Q.—And he was demanding something from you and there was that 25 cents an acre and you say, on your oath, that you did not ask him where that went? A.—I asked him if he had not been remunerated out of that and he said not.

Q.—And you did not ask him who was remunerated out of it? A.—No, I did not and don't know to this day who got it.

Q.—And you did not inquire? A.—No, I did not.

Q.—Is there anything else you desire to correct or make comment on? A.—Yes. Mr. Pritchard says here that he left, the official left my service, because he was not promoted. I want to say that that was not the reason. I asked him to resign for the reason that he had been accountant in the office for, as he says, twenty-two years, and there had been systematically, month after month, for over twelve years, stealing and embezzling going on in the Department of which he was accountant. And when it was discovered by the departmental auditor, the man who was the party who was presumed to be the guilty one, had absconded, he was in the United States, and Mr. Pritchard, being the accountant, was brought into my room, with the auditor, and he made a statement regarding the matter, as to what he knew about it, and then when we arrested the gentleman or the man, Bartlett, brought him back and a trial was held, Mr. Pritchard, when he went down to Court, could not remember a single thing that he had said to us before Mr. Bartlett was arrested, and I said to him, I said, "If you cannot remember anything longer than that," I said, "you had better resign and leave the service." That is how he came to leave.

Q.—Then was there any other matter that was deposed to that you desired to make any statement about? A.—No, that is all.

Q.—That is all then, Mr. Roblin, thank you.

COLIN H. CAMPBELL sworn, Examined by

MR. TILLEY: Q.—Mr. Campbell, you are the President of the Ontario, Manitoba and Western Land Company? A.—I am.

Q.—And Mr. Bettes is the Manager of that company? A.—He is the managing Director.

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Q.—And your company sold to the Union Trust Company the Carrot River Lands that he spoke about? A.—We did.

Q.—And you have read his evidence and Mr. Pritchard's evidence regarding that sale? A.—Yes.

Q.—And you have some statements regarding that that you would like to make? A.—I have.

Q.—What are they, Mr. Campbell? A.—I wish to say that Mr. Pritchard's statements in very many particulars are untrue. Perhaps you will allow me to give it in narrative form.

Q.—Yes? A.—In the months of August, 1903, my partner, Mr. Crawford, dropped dead. During the months of September I was wholly in charge and had a great deal of work to do. On the 1st October or the 2nd October, in attempting to get to my office I was unable to do so and was, for a considerable part of October in my bed. Consequently a good deal of what Mr. Pritchard says could not possibly have occurred.

Q.—That is a good deal of what he said with regard to what? A.—What took place between himself and myself.

Q.—At what stage of the transaction? A.—In October.

Q.—When the cheque was given? A.—Yes. I will comment upon his evidence, if you will allow me. Page 3043, I think is the first. He says in answer to your question, Mr. Tilley: "Tell me just what he said. Well, he said, I think it will be to your advantage to give me \$1,000 of this commission." I say that is absolutely untrue.

Q.—Is that one of the things that you say Mr. Pritchard deposed to and that could not have happened by reason of your illness? A.—I mean to say that when the closing up of this matter was concerned, if you will look at the agreement for sale, you will find that I did not sign the agreement for sale, although I should have signed it, as President of the company. You will find that the agreement for sale is signed by Mr. Bettes.

Q.—It is dated the 15th October and is signed by Mr. Bettes as Manager and Secretary-Treasurer, and it is not signed by you, you say, as President? A.—No.

Q.—That indicates to you what fact? A.—That I was not around.

Q.—On what date? The 15th October? A.—The time of the closing.

Q.—Then you say that because Mr. Pritchard fixed that conversation at the time the agreement was signed that that shows that. A.—I say that no such conversation as he states there, took place at any time. Further, if you will allow me, he says that I said to him a little later on, "Well, it would be to your advantage to give me the amount and he said, you go and think it over." I say no such conversation as that ever took place between Pritchard and myself. Then he goes on further to say that he got the cheque and the note from me. That is not correct. Then he goes on to say that I said to him that I thought he had acted wisely. I never said anything of the kind. He further says that he handed me telegrams or letters from Mr. Foster. I wish to say that I never saw a telegram or a letter from Mr. Foster and when he says that he handed me papers he says what is absolutely untrue.

Q.—Was there anything else, Mr. Campbell? A.—Yes, there are some other things. I don't know whether you wish me to take up the agreement and the different phases of the agreement.

Q.—Whatever occurs to you that you feel in justice to yourself should be said. A.—A difficulty arose in reference to this agreement through Mr. Pritchard's negligence; through Mr. Pritchard not representing to the purchasers the true condition of the title under which our lands were vested. For a considerable length of time it was doubtful if the sale would go through, and Mr. Pritchard asked me on his behalf to take hold of it for him to see if it was not possible. He was exceedingly anxious to make a commission. I did so and I straightened up the matters. What we were selling was our equitable interest in the agreements and Mr. Pritchard had sold or had agreed to sell land for us and we had no title to the land and then also Mr. Pritchard had neglected to explain about the transfers and the position of the survey dues and the payments. The result of it was that the purchasers drove, I think, too hard a bargain with the Ontario, Manitoba and Western Land Company as to payments. During the time I told Mr. Pritchard that unless this matter could be adjusted the question of survey fees and other charges would have to be debited to his commission. He asked me to take hold of it and endeavor

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to adjust it. I took hold of it and adjusted it to the satisfaction of both parties. Resulting in that agreement which, in the carrying out of it, was carried out satisfactorily on both sides. After Mr. Pritchard had received the cheque—had received the note—some time after I met him and asked him to come to my office. He came to my office. Previous to this I had been endeavoring to make sales of other lands that were in his hands, by offering them for him, and I said to him, Mr. Pritchard, I think you should give me some compensation, and he said, What would you suggest? I said, Well, I thought \$1,000 was fair. He did not demur. Came back the next day and imposed a further condition, namely that I should take these lands, propositions of his, when I went to England and endeavor to make a disposal of them, which I did. Mr. Pritchard did not pay me that \$1,000 as part of the commission; he paid it to me for adequate services rendered by me to Mr. Pritchard.

Q.—Then you were paid \$1,000? A.—I was, but not as part of the commission or in the manner that Mr. Pritchard sought to convey here.

Q.—Is there anything else now that you wanted to mention? A.—I wish to say emphatically that there was no duress on Mr. Pritchard, no intimidation of any kind at all, and I wish to say this, that the \$1,000 was not paid out of the cash he received, but out of the note, and when he paid it I said, Now, Mr. Pritchard, are you satisfied, and he said, perfectly.

Q.—What do you mean when you say it was paid out of the note? A.—Well, the note did not mature.

Q.—Mr. Pritchard said it was discounted. A.—Well, I don't think it bears that.

Q.—Do you say it was not discounted? A.—I don't know. It was some time after the transaction was closed, whether the note was discounted or not, I cannot say.

Q.—Have you looked over your papers to see whether you have any correspondence between Mr. Pritchard and Mr. Foster or any other papers relating to the sale? A.—I have, but I know absolutely that I have none.

Q.—Have you looked through them to see? A.—Yes.

Q.—Did you make a careful investigation of your books and papers before you came away? A.—The practice of our office is, with each

transaction as it is closed, to hand back with the agreement as it is executed the correspondence in connection with it.

Q.—Who would you hand that to?

A.—That would be handed to the Ontario, Manitoba and Western Land Company and I requested Mr. Bettes to search and bring every paper of every kind and description to this Commission.

Q.—Do you hand back to Mr. Bettes the correspondence that you have carried on yourself? A.—Yes, that is the absolute practice of our office.

Q.—Your own correspondence settling the terms of the agreement? A.—Yes, we attach them all together.

Q.—And hand over everything? A.—Yes, we hand over everything, we don't keep it.

Q.—You keep no file of papers yourselves? A.—No, in all our lands and everything else we attach every bit of correspondence and file it with the original papers of the mortgagee.

Q.—That is not a mortgage, but you say the same practice prevailed? A.—The same practice prevailed.

Q.—Or did you not go through it, knowing of that practice? A.—Well, I looked through my own papers.

Q.—What papers would you have to look through? A.—I looked through to see if there was anything I had of any kind or description.

Q.—And you found nothing? A.—Nothing at all.

Q.—Was the \$1,000 credited in your books? A.—Well, I looked for the credit, and I could not find the credit.

Q.—Was it paid to you by cheque or in cash? A.—In cash.

Q.—Where was it deposited? A.—I cannot tell you where I deposited it.

Q.—Was it deposited through your firm's account? A.—I cannot say that it was.

Q.—Cannot you say that it was not? A.—I knew it was not. It might be deposited to my credit with the firm.

Q.—Was it? A.—Not that I know of.

Q.—Your investigation that you made would indicate that it was not? A.—Yes.

Q.—Did you examine further to see where it was deposited? A.—I examined my bank books, yes.

Q.—Did you find it deposited? A.—It may be deposited there because I find deposits of various amounts,

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my cash deposits of various amounts are considerable. My investment accounts and so on.

Q.—Then it must be in your private account? A.—It is in my private account, no doubt.

Q.—Deposited in some private account of your own? A.—Certainly.

Q.—But it is not shown as a specific item in your account? A.—Not that I can say.

Q.—And you cannot tell us the date that you deposited it from any books that you have got? A.—No, I tried to do that, but I had not before me these cheques or notes.

Q.—Is that correct, that you cannot from your books in any way trace that \$1,000 to find when you deposited it? A.—I do not say that I cannot.

Q.—But you could not when you were in Winnipeg? A.—Yes, I could not. I had not the documents before me.

Q.—These, of course, would only be indicative of the date the cheques were given? A.—Yes, I could have gone to the bank and seen the deposit slip.

Q.—Without looking at the bank deposit slip you have no means of knowing when you received or deposited the \$1,000? A.—No.

Q.—Neither can you fix the date you received it? A.—No, I know it was some time after.

Q.—Now, did you telephone to the bank when Mr. Pritchard got this note? A.—I have no recollection of it.

Q.—Will you swear you did not? A.—I cannot remember that and my memory is very good.

Q.—Mr. Pritchard says you telephoned down to the bank to enable him to get it discounted? A.—Well, that may be, but I don't see how or why I would.

Q.—I am speaking of the note? A.—Well, I don't remember it.

Q.—All you can say is, it may be right? A.—It may be right.

Q.—And he says, that having discounted the note it is true that you got the \$1,000 out of the note, that might be so? A.—That might be so.

Q.—That might be all on the same date as the cheque? A.—I think not.

Q.—It might be? A.—It might be, yes.

Q.—For anything you can point to as establishing another date it might be all on the same day as the cheque? A.—I know it was subsequent to the time he got paid.

Q.—Certainly, you said it was November 6th? A.—We had no conversation till after.

Q.—Pritchard says it was on November 6th. Would you say that was wrong? A.—What is the date of the cheque?

Q.—November 5th? A.—Possibly. I know it was after he received the note and cheque.

Q.—That would be after? A.—He had it in his possession.

Q.—Then had there been no discussion between you and Mr. Pritchard prior to that? A.—None whatever.

Q.—You see that you signed this cheque and you signed the note, you noticed that? A.—Yes.

Q.—So that you knew the note and cheque were being issued? A.—Yes.

Q.—Now, do you say you did not hand them to Pritchard? A.—I say I did not.

Q.—Who did hand them to him? A.—Mr. Bettes.

Q.—Are you positive about that? A.—Well, I know I did not. Mr. Bettes brings the cheques to me to sign and I sign them and they go back to the office.

Q.—Did you give him the note? A.—No.

Q.—Will you swear you did not? A.—I swear I did not.

Q.—You swear you did not hand Mr. Pritchard the promissory note, dated November 5th? A.—I did not.

Q.—Pritchard said he brought \$1,000 back and discounted the note on the 6th, that he received the cheque and note on the 6th and gave back the \$1,000. Now, I understand you to agree with Mr. Bettes and Mr. Pritchard that the negotiations for the sale were carried on by Pritchard? A.—There is no doubt about that.

Q.—Who did he carry the negotiations on with? A.—I don't know. He came in one day.

Q.—Did he carry the negotiations on by correspondence or verbally? A.—Well, he came in one day, stood by my desk and had a letter. Who the letter was from I don't know.

Q.—What did he say to you about the letter? A.—He said I can sell those lands, your Carrot River lands. I said, Go and see Mr. Bettes.

Q.—That is all that you saw about the correspondence? A.—Yes.

Q.—Then how do you know that Mr. Pritchard made any misrepresentations if you did not see the cor-

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response? A.—Because in carrying it out we knew, not that he had made any misrepresentations, but that he had failed to give to the purchasers the fact, which was well known, with us in the West, that we simply sold our equity and the purchaser assumed the payment of the survey dues.

Q.—Did you have correspondence straightening out that difficulty? A.—Yes.

Q.—Who with? A.—With the Union Trust Company.

Q.—With the company or with Mr. Foster? A.—With the company.

Q.—Was that before the agreement was executed? A.—Before the agreement was executed.

Q.—Did you have any discussion about payment of the survey fees before the arrangement was executed? A.—Yes.

Q.—Mr. Bettes says no. A.—Mr. Bettes is mistaken, because I made the draft agreement and sent it down, by which the purchaser would assume the payment of the balance due to our vendors, simply selling our equity as you will see that Mr. Whitla did in this other agreement.

Q.—Mr. Bettes gave you instructions, did he? A.—Yes.

Q.—And you prepared an agreement from Mr. Bettes' instruction? A.—Yes.

Q.—And in that agreement you provided that the purchasers should pay all the money that was due to your vendor? A.—Yes.

Q.—And that was struck out? A.—That was struck out and instead of selling our equity—

Q.—Then, that having been struck out, did you agree to it? A.—Finally we agreed to it.

Q.—How long did the discussion take? A.—It went on during part of September.

Q.—How long during September? A.—Well, towards the end, I think, of September, we finally reached a basis.

Q.—How many letters would pass between you and the Trust Company regarding it? A.—There were only, to me—I have thought over it a good deal since and I think there were only two letters over this matter of the purchase being of the lands instead of the purchase being of our equity.

Q.—That means that you had not paid the full purchase price for the lands and held them under an agreement? A.—Yes.

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Q.—Don't most people dealing with Western lands know that that is the state of affairs regarding the title? A.—No, and in addition to that we were wholly unable to give any registered title.

Q.—You were straightening out the work that a solicitor usually performs? A.—No.

Q.—What additional work had you? A.—I had to adjust the question of payments and adjust the question of the survey fees, and adjust the question of the taxes.

Q.—How long did that correspondence extend over? A.—The correspondence did not extend over very long. Mr. Pritchard, I know, had some telegrams over the conditions.

Q.—How many letters passed between you and the Union Trust Company over all these matters that were in dispute? A.—The letters and telegrams would not exceed five or six.

Q.—Now, outside of the other services that you were to render for Mr. Pritchard, this \$1,000 covers that correspondence. A.—And the services I had rendered to him.

Q.—Now what other services did you render except straightening out these matters in that correspondence? A.—Well, I am quite willing to go into it, if you desire it, if you think it is pertinent to the issue.

Q.—You are contradicting Mr. Pritchard's evidence on that point. A.—I am quite willing, if the Chairman thinks it is pertinent, I am quite willing to tell you if the matter of my charges for what I did is pertinent to this issue, I am willing to make a full and free and frank statement.

JUDGE MAC TAVISH: Q.—You say it was your fee for services rendered? A.—Adequate services rendered.

Q.—In another matter? A.—Yes.

MR. TILLEY: Q.—Were those services rendered prior to November 6th? A.—Some of them were and some of them subsequent. When he came back and handed me the thousand dollars he imposed a condition, which condition I fulfilled.

Q.—Did you ask him for the thousand dollars— A.—No, I suggested that as a reasonable fee.

Q.—You suggested a thousand dollars as a reasonable fee? A.—Yes.

Q.—That would be what you regarded as a reasonable fee without regard to any subsequent work? A.—That was stated.

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Q.—And he, as a stipulation of paying you the thousand dollars, said you must do something else for it? A.—Yes.

Q.—And you agreed to it? A.—Yes.

Q.—We will leave it at that. During all that time, of course, you were the President of the Ontario, Manitoba and Northwestern Company?

A.—Yes, but my being President of the company, or my being Attorney General, had nothing whatever to do with the payment of this thousand dollars.

JUDGE MAC TAVISH: Q.—You were a practising barrister-at-law? A.—Yes.

MR. TILLEY: Did you ever disclose that payment of a thousand dollars to anyone, and if so, whom? A.—I never disclosed it to anyone. I had forgotten all about it until it came up here at this commission.

Q.—At that time did you have partners in your law business? A.—I had.

Q.—And you did not disclose it to them? A.—In the month of September I had no partner.

Q.—In the month of October? A.—I had a partner commencing from 1st October, but from the middle of August until the 1st October I had no law partner entitled to share in my profits.

Q.—But at the time you drew this agreement, 15th October? A.—At the time I performed these services I had no partner.

Q.—At the time you performed the services for which you got the \$1,000 you had no partner. Do I understand you to say so? A.—Yes, practically.

Q.—I thought you said there were services rendered afterwards? A.—Yes, afterwards when I went to England.

MR. TILLEY: Then, if your Honours will adjourn now till eight o'clock, we will endeavour to have the managers here then.

(The Commission then adjourned till eight o'clock p.m.)

EVENING SESSION.

Commission resumed at 8 p. m.

LIFE MANAGERS' ASSOCIATION.

MR. SHEPLEY: The Canadian Life Insurance Officers' Association has been holding its meetings to-day, with a view to offering suggestions to the Commission, and those suggestions

which they are prepared to make are embodied in what one may call a memorial, which has been furnished us, but at such an hour that it has not been quite feasible to analyze it with care. My suggestion to the Board is that in the first place we should ascertain what companies are represented and by what officers, and in the second place that we should have some officer of the Association, probably the secretary read a memorial to us, so that we might have an idea of just what the Association has agreed upon, after which I would ask your Honours to hear any members of the Association in respect of these suggestions that may have been agreed upon among themselves. That of course is a matter with which we would not think of interfering at all. No doubt they will have decided upon some compendious method of presenting their views to the Board apart from the memorial. Then if the President, Mr. Burke, will say what companies are represented and by what officers, that will be the first thing I would like to have so that we may know exactly whom we have here.

MR. BURKE: The North American Life, represented by Mr. Goldman, managing director; the Sun Life by Mr. T. B. Macaulay, the actuary and secretary; Mr. T. Hilliard, president of the Dominion Life Insurance Company; the manager of the London Life Insurance Co., Mr. Richter; the Northern Life by Mr. Milne; the Federal Life by Mr. Dexter, president; the Manufacturers Life by Mr. R. F. Junkin, managing director and Mr. Pabst, the actuary, and the Canada Life by Mr. Sanderson, the actuary; the Pelican British Empire Life by Mr. McDougall, and the Excelsior Life by Mr. Marshall, the managing director; the Continental Life by Mr. Fuller, the actuary; the Imperial Life by Mr. Bradshaw; and the Royal Victoria by myself.

JUDGE MAC TAVISH: The secretary of the Association, I understand, is Mr. Bradshaw?

MR. BURKE: Yes.

JUDGE MAC TAVISH: Then we will hear Mr. Bradshaw.

MR. SHEPLEY: There are thirteen companies represented altogether by fourteen representatives?

MR. BURKE: Yes. Might I correct that? Mr. Wood, the actuary of the Sun Life, is also present.

MR. SHEPLEY: I would suggest that we have the memorial read, and

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that the reading be slow and careful, so that we may follow it, because some of us are perhaps not so apt in those matters as the gentlemen themselves. The memorial will be exhibit 682.

(Copies of memorial handed to Commissioners).

MR. DAVID BURKE then read the memorial.

MR. SHEPLEY: This is largely an actuarial question involved in the schedule?

MR. BURKE: Yes.

MR. SHEPLEY: Practically altogether an actuarial calculation?

MR. BURKE: Altogether.

MR. SHEPLEY: And probably without some assistance in respect of the formula, we might not perhaps get very much aid from that in a cursory discussion such as we are able to have just now.

MR. BURKE: Quite possible.

MR. SHEPLEY: I am quite in the hands of your Association, but I would suggest that it is perhaps better for us to-night to discuss the practical suggestions you have made rather than to go into this technical formula. Would you agree to that?

MR. BURKE: I think there would be no objection, I am sure.

MR. SHEPLEY: I do not mean at all to say that we won't at some future time ask actuarial assistance in respect of the formula from actuaries of the various companies, but so far as to-night is concerned, as we have not our actuary here, we might perhaps make better progress by discussing the suggestions you have made.

MR. BURKE: I think that would be satisfactory.

MR. SHEPLEY: Then Mr. Burke if you will be good enough to elaborate this a little for us I shall be glad. Your first recommendation is with respect to publicity, and you have used the word "adequate." That is a word which requires some elaboration for us—adequate publicity.

MR. BURKE: We mean by the word "adequate" that the returns shall give the entire business of the company in detail as far as possible.

MR. SHEPLEY: Do you include in that their business from a financial sense as well as their business from the insurance standpoint?

MR. BURKE: Well the business of insurance would be from the insurance standpoint, taking up the different branches of the companies' business,

each department of the company giving the details of that department, so that the public may have a thorough understanding of the practices of the company and the position of it.

MR. SHEPLEY: I would much rather not interrupt you while you elaborate on this—yon and any other gentleman who may address us—unless something occurs to me as you go along; so that if you will deal with this a little in detail it might help us.

MR. BURKE: The Life Officers' Association place a very high regard on the methods of the business in England, and it seems that their publicity has been the safeguard of the business, and has taken the place of restrictive legislation. We think that publicity is the greatest incentive for a life insurance manager to make the best possible record he can on all lines, both for the benefit of the policy holders or its solidity, or its method, and for general good results.

MR. LANGMUIR: What is the extent and character of the publicity in England?

MR. BURKE: The publicity in England, is, I suppose, exhibited in the Board of Trade returns to a large extent.

MR. LANGMUIR: We know that, but anything more than that?

MR. BURKE: I do not know that there are returns made to any other office, excepting to the Board of Trade. There is no insurance department in England.

MR. SHEPLEY: Would you suggest then that we should in this country have returns giving each year such information as is given in the board of returns, or would you suggest that we might even have greater publicity than those returns would give?

MR. BURKE: Well, I think I could reply to that by saying that I would advise the utmost publicity. I have not the Board of Trade returns before me for comparison or criticism but I would advocate the fullest possible returns.

MR. LANGMUIR: The conditions are not different in England from what they are here?

MR. BURKE: They are somewhat different.

MR. LANGMUIR: How would you meet that?

MR. BURKE: That would have to be very carefully considered—the adjustment of the conditions to the requirements.

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MR. LANGMUIR: I have more particular reference to the conditions of the investment market.

MR. BURKE: I do not think there are any restrictions in England on the investments.

MR. LANGMUIR: There are some I think. Mr. Bradshaw I think refers to it in his pamphlet which he issued, does he not?

MR. BRADSHAW: There are practically no restrictions in life insurance investments in England.

MR. LANGMUIR: None whatever?

MR. BRADSHAW: None whatever. Whenever a company applies for enlarged powers, those enlarged powers are freely given.

MR. SHEPLEY: There are no legislative restrictions I understand.

MR. BRADSHAW: No.

MR. SHEPLEY: When you say in this paragraph "Based upon freedom and publicity," you mean freedom in respect of investments and all other insurance questions and publicity in respect of all the company may be doing?

MR. BURKE: I mean in that connection greater freedom in investments and more publicity in information given to the Government.

MR. SHEPLEY: I trust all the members of the Association will quite understand that the discussion is entirely informal.

JUDGE MacTAVISH: Oh quite.

MR. SHEPLEY: And what we want is a full and clear and general expression of opinion.

JUDGE MacTAVISH: We want a general expression of opinion from every person that can give us any information or any suggestions or any instructions.

MR. SHEPLEY: The freer the discussion is the better it will serve our purpose.

JUDGE MacTAVISH: Yes.

MR. SHEPLEY: I hope all the gentlemen understand that. There is nothing stilted or archaic about this. It is just a general discussion in which we want to hear everybody's opinion.

MR. GOLDMAN: The reason I asked if the discussion was general was because of the question about the English Board of Trade returns. They differ very materially from those in Canada; what is known as a revenue account, the premiums of the year, not the premiums actually received, the outgo of the year, and what is paid for the year; then the difference

that is to be paid is brought down as a liability. Their returns are made each year, simply a revenue account, and the assets and liabilities, instead of being shown each year as in Canada—that is the net reserve liability, which by this time you gentlemen understand as well as we do—are simply brought down, the total sums in hand, and they call it the assurance fund. I should in justice say that there is at least one company there, the old Prudential, that makes an annual statement, but it is of its own accord; it is not required annually. Now, each five years the company must furnish a full detailed return, and no doubt you have seen that in its form here. Now, for a Canadian company to be required to furnish such a return annually—that was the question which was put to us—would be very laborious, and would be of very little use in that they require to give a detailed list of every policy, its different clauses, and the premiums charged on it. That is of no special benefit to the public, to the policyholders, and is of benefit only to our own assurance department. We make valuations annually, and it is checked by the department yearly. Now, with respect to the question of profit, that also is a matter dealt with by the British company usually each five years. It used to be septennially, but the majority of them now have it quinquennially. Then at each five years they are required to give in detail about what is suggested in this report, and also to show the rate of interest earned on their investment, and the surrender values and details of that kind, and it has been found since the passing of the Act of 1870, and some amendments thereto, that it has been highly satisfactory and has proved a great benefit. I just wish to make these few remarks at the present time.

MR. SHEPLEY: I think you are all agreed that the British system leaves the company absolutely untrammelled with regard to investments.

MR. GOLDMAN: Absolutely untrammelled as to investment, and also untrammelled for five years as to the valuation, but there is this feature about it—

MR. SHEPLEY: Let me interrupt for a moment. Are you not really absolutely untrammelled in Great Britain with regard to the valuation, except for of course public opinion,

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and the fact that you have to make public your valuation every five years?

MR. GOLDMAN: Yes and no. Force of public opinion means really competition between the companies, and the tendency of the companies there has been for the last five or ten years to increase their valuations in that they have reduced the rate of interest on which their valuation has been based. For instance, the London Life Association and one or two other companies actually value on a two and a half per cent basis. Well, you have learned enough about life insurance by this time to know that if such a severe test were applied in this country very few of the companies would have a gross premium equivalent to the net premium. However, that has been brought about by competition, one company trying to do better for its policyholders than the other, and also to live within the rate of interest they are earning. That is the great point.

MR. SHEPLEY: What I wanted to know was this: in Great Britain one company every five years makes public in the Board of Trade returns the basis upon which its reserve or its valuation is made?

MR. GOLDMAN: Yes.

MR. SHEPLEY: Another company does the same?

MR. GOLDMAN: Yes.

MR. SHEPLEY: Another company does the same?

MR. GOLDMAN: Yes.

MR. SHEPLEY: I rather understand—and I want to know whether I am right about that—that there is no legislative restrictions upon what the companies there do in that regard?

MR. GOLDMAN: None whatever.

MR. SHEPLEY: But they are left to secure such advantages between themselves as publicity in respect of their methods will give them?

MR. GOLDMAN: Exactly. But there is this feature; that you will notice in the Board of Trade returns that where a company appears to be valuing its policies upon unsound lines, or its assets appear to be padded, or anything of that sort, as happened in one or two of the smaller companies doing business on different lines, the secretary of the Board of Trade communicates with the manager or secretary of that company, and then that correspondence is published with their return to the Board of Trade. That is part of the publicity.

MR. SANDERSON: I would suggest the importance of emphasizing the underlying principle in this first section. From an examination of the operation of the companies, it is obvious certain reforms in the Insurance Act would be required, and the object of that section was to bring about these changes and reforms through the medium of publicity rather than restriction and prohibition; in other words, as far as possible to proceed upon the lines of the English system rather than the Armstrong regulations, but not to transport the whole of their system here.

MR. SHEPLEY: I think the paragraph in this document makes that quite clear. Then there was just the other question about the returns. I divided what Mr. Goldman said into three heads, investment, reserve and return. Would you mind telling me again what you have in your mind about annual returns?

MR. GOLDMAN: The annual returns in Great Britain differ in two respects; first, the Canadian system requires a cash return, while in England it is a revenue return. Then in Canada we are required to make a full return annually. That is simply required once in five years in Great Britain.

MR. SHEPLEY: I do not want to trench upon any ground upon which your Association is not a unit at all, unless I can get it by way of individual views, but is it suggested that returns should be made here less frequently than once a year?

MR. GOLDMAN: Oh, no.

MR. SHEPLEY: You think that principle is too well established here to be departed from?

MR. GOLDMAN: Oh, yes; I think I am safe in saying that the companies have no thought of suggesting any changes in that respect. It is too well established on this continent—the annual returns.

A MEMBER: There are annual returns in England.

MR. SHEPLEY: But not in these respects.

MR. MACAULAY: Mr. Goldman means the annual returns with valuations and so on.

MR. SHEPLEY: You are not suggesting that there should be a valuation every year?

MR. GOLDMAN: Oh, no. We do not want to move away from any lines of safety.

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MR. SHEPLEY: Do you favour a return based upon revenue rather than a return based upon—what was the figure you used?

MR. GOLDMAN: Cash. No I prefer the present system, the cash system.

MR. SHEPLEY: Would it be possible for you gentleman in respect of the return to prepare and submit to the Commission a form of return embracing all the features that you think it would be useful to include in the return by way of giving the public greater information?

MR. GOLDMAN: Yes, we would be very happy to prepare such a document.

MR. HILLIARD: Just a word here. What we really propose will be found in the latter pages. The principle is set forth in number 1. Now you are asking for some details. The details of our proposal are set forth in the remaining sections. You will come to them by and by in due course. I venture that suggestion as helping to clear the way.

MR. SHEPLEY: What suggestion do you refer to?

MR. HILLIARD: In the matter of the changes of the forms of returns. The changes are mentioned in the preceding pages and in other respects we propose no change in the present system.

MR. SHEPLEY: I am sure you are more likely to be right than I am, but I do not recollect that it was read from the memorial.

MR. HILLIARD: You will find it in sections 6, 7 and 8, and some details in 9.

MR. SHEPLEY: I see a general statement at the end of paragraph 5 that the Government statement form be revised in such a way as to call for greater detail in respect of income, assets and liabilities.

MR. HILLIARD: I might venture just one suggestion; that it was in the minds of some, although not decided upon officially, that no doubt the Commission would consult with the Insurance Department as to the precise form of the return. No doubt that will be done, and, therefore, we did not think it necessary to go over that form in detail.

MR. MACAULAY: I think our returns are already superior to the British returns on most points.

MR. SHEPLEY: On some points I would agree with you. You say on most.

MR. MACAULAY: I think on most. The returns of income and disbursements are given in greater detail with us. The British returns, while they are very satisfactory in some respects, are sadly lacking in details about investments. To a Canadian eye they are lacking in detail about investment.

MR. SHEPLEY: I suppose it is because there is no restrictive legislation there at all?

MR. MACAULAY: I do not think it has any connection with that, but that is the point where we think the British returns are not all that they might be. On the other hand, the British returns have gone into other details which until lately have never been asked for on this side of the Atlantic to any extent. I refer in particular to questions about profits and surrender values, and things of that kind. On this side of the Atlantic, both in the United States and Canada, the practice has been to ask very full details in regard to income, disbursements, assets, liabilities and surplus, but as to what a company was actually paying and doing for its policy-holders the returns have been practically silent. The British returns have been much superior to ours in that respect in the way of giving examples of profits and examples of surrender values. The companies also give greater details in regard to the method of valuation, but those are hardly applicable to Canadian methods. I do not think we should try to adopt their details of the valuation system, but whether or not it would be desirable to take a leaf out of their book in regard to such things as profits and surrender values is a matter well worth considering.

MR. SHEPLEY: Would any other gentleman desire to speak before we pass on to the next paragraph. I dare say we are anticipating a little in what we have been saying, but I was going to suggest that we proceed now to the second paragraph, which is a specific matter by itself, unless some other gentleman would like to give us his view. Mr. Geary has been good enough to suggest something that may be of value. In speaking of publicity, is the feeling of the Association that there should be publicity otherwise than in respect of returns to the Government—publicity, for instance, by publication to the policy-holders independently of

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Government returns? Has that been considered?

MR. MACAULAY: I do not think that any of us had any idea that any form of publicity, apart from what was given in the Government returns, would be necessary.

MR. SHEPLEY: Then in respect of investments, has the Association considered this question; whether or not, taking a Government return for any particular year, the history of its funds through its various phases of investment should appear in the Government return, or whether you should take the 31st December as the absolute date, and say the funds are invested in so and so on the 31st December? Has that been considered?

MR. MACAULAY: It has not been discussed at all.

MR. SHEPLEY: Would there be any objection to an expression of the views of the members of the Association on that, because that is a question that has given us a good deal of trouble.

MR. GOLDMAN: You have in view the movements of the companies' securities throughout the whole year. I think that covers your point?

MR. SHEPLEY: Yes, precisely.

MR. LANGMUIR: The whole movement.

MR. GOLDMAN: It has not occurred to me before, but I gather from you that if we start at the beginning of the year with a certain line of security, we show what we have added to that during the year and we show which of them go away, and ultimately at the end of year the whole lot is grouped.

MR. SHEPLEY: You turn up with so much in your hands?

MR. GOLDMAN: So that the idea is then that if any one is having a trade on a security we show what is done with it. If any of them slip away the Department will see what became of them. In other words, it is an absolute check on the company's securities. It has not been discussed but I see no objection to it.

MR. MACAULAY: It has not been discussed, but I think every one of us would see no objection to it at all except the one practical point of the bulkiness of the Government returns. Outside of that there is no objection in the world to it.

MR. HILLIARD: We are speaking individually on the point raised by Mr. Shepley. I would say also

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that there is no objection whatever to a full accounting throughout the year of the movements of the securities.

JUDGE MAC TAVISH: The gentlemen present had better understand in regard to this question that we will take silence as giving consent.

MR. GOLDMAN: You mean in regard to showing the movements of the companies' securities during the year?

JUDGE MAC TAVISH: Yes.

MR. GOLDMAN: It seems a very proper return to have.

MR. SHEPLEY: I think we have discussed the various features involved in this adequate publicity clause. Then the next clause, "Each company shall, on every policy issued by them" (reads clause). I understand that you are all agreed upon that, and I suppose the result of that would probably be to secure something like uniformity in the practice of various companies.

MR. MACAULAY: I do not think we want uniformity.

MR. SHEPLEY: Competition?

MR. MACAULEY: We think competition is a good deal better than uniformity. Our feeling is that this is another place where publicity will come in to help matters out, and it is desired that every company shall state what it is going to do in clear and unambiguous language on every policy, and that every company should be left as free as the air to decide what form of non-forfeiture and surrender regulations it will have, and we think in that way in the end we will get very much better regulations than in any other way.

MR. SHEPLEY: Do you all agree that that is better than making some uniform regulation with respect to the proportion the surrender value and non-forfeitable provisions should bear to the reserve?

MR. MACAULAY: I think we are decidedly uniform on that. Our advice would be against any Government returns in that regard.

MR. SHEPLEY: Against any compulsory uniformity?

MR. MACAULAY: Very decidedly against that.

MR. SHEPLEY: You are determined to preserve competitive features?

MR. MACAULAY: That is the best way. That would give better results than any Government regulation.

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MR. SHEPLEY: Will some one of you gentlemen who has taken part in the compiling of this clause with respect to investments just tell us in a word—we could find it in five minutes by turning to the Act—what alterations you are suggesting in the present provision with respect to investment?

JUDGE MAC TAVISH: What changes are suggested by this clause 3, by the new section?

MR. SHEPLEY: Perhaps the president has considered that and can tell us in a moment?

MR. BURKE: I was not one of the committee that drafted that clause.

JUDGE MAC TAVISH: Who drafted it?

MR. BURKE: Some of the Toronto gentlemen, I think.

MR. BRADSHAW: In the first clause it is suggested that the companies be permitted to invest in public debentures, bonds, stocks, consuls or any securities of Canada or any of the provinces of Canada, or of any other country, or any municipal corporation—

MR. SHEPLEY: You have added the words "or for any other country." That is the change?

MR. BRADSHAW: That is the change. The idea is to give absolute freedom in the investment of bonds, etc. Clause B refers to the bonds of any company or corporation, which bonds are secured by a mortgage to trustees or trust corporation or otherwise. In the Act at present there are a number of institutions enumerated in which the company may invest their bonds. The idea here is to widen the powers, so as to permit the investment in the bonds of any company provided these bonds are secured by a mortgage to a trust company or trustee.

MR. SHEPLEY: You are altering that absolutely without regard to the locality of the property upon which the trust mortgage is secured?

MR. BRADSHAW: Yes. The companies are doing business in various countries, and it was thought desirable they should have the opportunity of investing their funds in the first securities of the company or corporation. You will notice that the mortgage is secured upon real estate.

JUDGE MAC TAVISH: Or other assets?

MR. BRADSHAW: Yes, or other assets of the company; and in the

second class of security debenture, we ask that we be permitted to invest in the debentures or other evidences of indebtedness of any company or corporation which has been doing business for a term of not less than three years prior to the date of the investment, and provided there has been no default in the payment of the interest during that time.

MR. SHEPLEY: That is without regard to whether or not in regard to these debentures there is a security upon assets—

MR. BRADSHAW: Yes.

MR. SHEPLEY: They may be promissory notes without any security behind them except the promise to pay?

MR. BRADSHAW: But the company would never take promissory notes.

MR. SHEPLEY: But there is no more security than in the case of a promissory note.

MR. MACAULAY: There is a distinction between the two classes of bonds. The first is secured by mortgage and in the second case there is no restriction whatever; and then bonds that are not secured by mortgage, so long as they have paid the interest for three years.

MR. SHEPLEY: But these are without any security upon assets.

MR. MACAULAY: Yes.

MR. BRADSHAW: Then we come down to the third grade of security, stock.

MR. GOLDMAN: As I understand it—I did not draw this clause, and Mr. Bradshaw will perhaps explain, or will I do it? I judge the reason of it is this: there is a difference in finance between the bonds and debentures. A bond is a paper security secured by a trust deed. A debenture is a security—

MR. SHEPLEY: A paper security.

MR. GOLDMAN: A paper security covering the same class of property.

MR. SHEPLEY: No.

MR. GOLDMAN: Pardon me; there are lots of companies having real estate security and buildings, and they issue debentures. They are empowered by their Act to issue debentures, and that is a debenture without mortgage. That is the distinction between the two. But when we say a debenture without security what we wanted to say is that it is without the mortgage bond.

Q.—MR. SHEPLEY: I should have thought there was no difference at

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all between the security of a debenture which is by mortgage charged upon real estate or other assets, and a bond or debenture which is without any mortgage at all secured by statute.

MR. GOLDMAN: There is a distinction between the two as I have explained. One is called a bond and the other a debenture.

MR. SHEPLEY: If you are all agreed upon that, that is satisfactory. As I said a moment ago a bond is not merely a promise to pay, but a promise to pay secured by an instrument under the statute.

MR. MACAULAY: By bond we mean a bond secured by mortgage. Then in the United States they speak of a debenture bond, or as a debenture being a bond, the same in every respect, and perhaps having security behind it but not carrying a mortgage.

MR. SHEPLEY: Do not say perhaps having security behind it.

MR. MACAULAY: Well, not having security. It has the promise of the company to pay behind it.

MR. SHEPLEY: That is what I said and Mr. Goldman does not agree with me.

MR. LANGMUIR: As I understand what you say there may be two issues. First the bond issue based upon a mortgage; then a debenture or an evidence of indebtedness with the same company; therefore the assets of the company would be a first charge for the bond issue, would it not?

MR. MACAULAY: That is right.

MR. LANGMUIR: But when a company has issued a second kind of security, and has paid its interest promptly for three years, that would be a valid security in your opinion?

MR. MACAULAY: That is it exactly; no restriction at all if the bonds are secured by mortgage, and the restriction that the company must have been going for three years and paying its interest if not secured by mortgage.

MR. GOLDMAN: Take the Electric Power Company on the other side. Their first issue was ten million of bonds; then they had trouble with the ice and they required to issue three million more making an indebtedness of thirteen million. The first issue was ten million of bonds and the second issue three million of debentures.

MR. SHEPLEY: Those were subsequent to the ten million?

MR. GOLDMAN: Yes.

MR. SHEPLEY: Were they issued in such a way that you could have had a receiver appointed and the property sold as in the first issue of bonds, or would you have to sue on them as on a promise to pay?

MR. GOLDMAN: I have not made myself thoroughly familiar with them. As I understand it, under the issue of the ten million of bonds you could come in and take the property and sell it, and the three million of debentures was a second security and would come after the bonds.

MR. SHEPLEY: If after the first issue of bonds which were charged upon the assets of the company you had another issue of debentures, we will call them, which were not a specific charge, they were secured by the promise of the company to pay; and supposing afterwards the company wanted more money, and raised more money upon a third issue of debentures, and more after that upon a fourth issue of debentures, would your idea be that there would be any priority in these various classes?

MR. MACAULAY: The first secured by mortgage would rank ahead of everything, and all the others would be equal.

JUDGE MAC TAVISH: Supposing the North American Life invested its funds and acquired all the bonds of a company, and the company also issued debentures, the bonds are referred to first as being bonds secured by mortgage, would the Sun Life be willing to take the debentures of that company?

MR. MACAULAY: No, sir. The idea that we have is that companies should not be at liberty to take those unsecured debentures unless the company that is issuing debentures has given some evidence of its ability—

MR. SHEPLEY: Of its ability to carry all the water there is in it?

MR. MACAULAY: Yes.

JUDGE MAC TAVISH: Then if these debentures had paid their interest for three years, the Sun Life, in the instance I have given, would be willing to invest its funds in the debentures, after the North American Life had secured the bonds?

MR. MACAULAY: Please don't say the Sun Life would be willing to.

MR. SHEPLEY: You would consider every proposition on its merits?

MR. MACAULAY: We are not talking about any one company.

JUDGE MAC TAVISH: I was only trying to get an example, to see if

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we could understand exactly the position of the companies.

MR. MACAULAY: The point is as to what would be legal, and then it would be left to the directors to settle in every case, which of these things they would choose. We are all agreed that it would be a mistake for the law to take the responsibility out of the directors' hands and put too many hedges around it. The responsibility must be left with the directors, and only such restrictions as are absolutely necessary should be placed around the legal abilities of the company.

MR. McDUGALL: I think it might be useful if I should make one short remark. I may be wrong, but I do not think I am. This clause in its fullness was submitted some time ago on behalf of this Association, and considered by the Finance Minister. I believe there is no substantial alteration in the clause before us this evening that was submitted by the Association to the Finance Minister.

MR. BRADSHAW: Take the Bell Telephone Company; they do not issue bonds. They issue debentures, and the debenture of the Bell Telephone Company is regarded as a very high grade security, and it is not a debenture secured by mortgage on real estate.

MR. LANGMUIR: That company issues no bonds.

MR. BRADSHAW: No.

MR. LANGMUIR: All its issues without bonds stand on the same footing?

MR. BRADSHAW: Yes, but it is not secured by mortgage on real estate.

MR. SHEPLEY: I was going to say it is not unusual; it is unusual, but it is not unknown that by the very terms of the mortgage enabling these securities to be issued there may be, without mortgage, a registration or charge upon the assets, just as though there was a mortgage. That may be so with the Bell Telephone.

MR. BRADSHAW: It is the case, but not on real estate. They exclude real estate.

MR. LANGMUIR: The trouble, if any, that is likely to arise is the priority of the first mortgage bonds. There may be such a thing as great prosperity for the next three years, so that the interest on the issues other than mortgage bonds may be paid promptly, and then undue competi-

tion sets in, and they may stop paying the interest almost immediately afterwards. There may be cases of that kind.

MR. MACAULEY: There is one point we ought to make clear, that when we speak of mortgage bonds we do not necessarily mean first mortgage bonds. We mean bonds secured by mortgage of any kind, first or second. We do not think there should be any distinction so long as they are secured by mortgage, first or second.

MR. SHEPLEY: You would leave the selection very largely in the hands of the management?

MR. MACAULAY: Yes.

MR. JUNKIN: Just one point in regard to debentures. Although they are not a first mortgage on the main securities of the company, they are very often very well secured by other securities that are assigned as collateral. Take, for instance, the debentures of the Niagara Falls Power Company which were mentioned. They are a debenture of the company on the plant on the American side; but the first mortgage bonds on their plant on the Canadian side are assigned as a collateral security, which makes them, if anything, a better security than their own first mortgage bonds, and very many other corporations have done the same thing. Take the Canadian Northern, their bonds are secured by a great many assets that are assigned—those that are not covered by first mortgage bonds.

MR. LANGMUIR: I know there are a great many cases of that kind.

MR. SHEPLEY: It is not unknown in this inquiry; we have heard of bonds being secured by transfers of stock.

MR. JUNKINS: Yes, and I was going to remark that the debentures are ahead of the stock. If a company may invest in any stock of any company, much more may they invest in debentures.

JUDGE MacTAVISH: We have not come to that yet.

MR. SHEPLEY: I thought Mr. Macaulay would rise, but he did not.

MR. KENT: I think it would be well before going any further to see which of the delegates here, if any, are going to leave to-night. It must be quite apparent to all of you that we cannot discuss all these questions in say two hours' time, or an hour from now. If we are going to ad-

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journal at ten o'clock the consequence will be, if a bill is brought in in Parliament, all these gentlemen will be in Ottawa, to oppose some part of the measure. I consider now is the time to give their opinion, before the bill is elaborated, and I think all those members that are here should stay over until to-morrow, so that we can further discuss the question.

MR. SHEPLEY: I should be delighted if that could be arranged, because I entirely agree that this is a discussion which is of so great importance that we should not hurry it at all. We should get exhaustively the views of the gentlemen, and nobody can be so well qualified as these gentlemen are to express views and opinions which would be of value to this Commission.

MR. LANGMUIR: I think it would be a great pity to close the discussion to-night.

MR. KENT: I should want to take up the time of these gentlemen myself for half an hour, to say nothing of anybody else. They are here now and on some questions they entirely disagree, and I want to find out just what argument each one has for the view he takes of it.

MR. SHEPLEY: Or at all events upon many questions they have not been able to agree. Nobody can have heard this document read without having seen that a great many of the questions which are troubling us are not touched upon in it, and as to all those it would be most useful for us to hear divergent views on the part of these gentlemen.

JUDGE MacTAVISH: I would say especially divergent views.

MR. KENT: There is Mr. Goldman with his views about not permitting policy-holders to vote, and there are others who hold the other view.

MR. GOLDMAN: I beg pardon, I did not express that view.

MR. KENT: Then I have made a mistake. Several managers have stated that they did not believe in allowing policy-holders to vote. Take Macaulay, for instance. About one-half of the managers are opposed to the policy-holders' right to vote, but the other half are enthusiastically in favour of it. I want to devote some little time to-morrow, if possible, to see what argument can be adduced, because, as you may have noticed, I consider myself the champion of the policy-holders. It is a matter upon which I have some strong convictions.

and I was just waiting for a meeting of this kind to try to obtain some little information for myself, and I should be very sorry if you all went away without giving me that information, because I think it will certainly be to the interest of the insurance companies themselves that they should have as full an understanding with the Commission as possible. It would certainly be agreeable to the Commission, and I think it should be to all the managers present.

MR. SHEPLEY: I am quite sure, if I may be permitted to say so, that every gentleman who is present representing an insurance company is fully alive to the great importance of the views, not only of the Association as a whole, but of the divergent views of the members of the Association, upon questions upon which they have not agreed, being very fully canvassed and discussed before the Commission, and I trust that members of the Association present will see it not only to the interest of this Commission and to the matter of insurance generally, but also to the interest of the insurance companies themselves, that we should not separate until all these various views have been very fully canvassed. The importance of it cannot be exaggerated at all. Then we come to the next clause, enumerating investments authorized by the Government. (Reads clause.)

MR. BRADSHAW: It is thought undesirable to enumerate the exceptions. Some that might be desirable to-day might not be desirable another day.

MR. SHEPLEY: You have eliminated the enumeration altogether.

MR. BRADSHAW: Yes, entirely so. It was thought the directors would be the best ones to determine the merits of two particular stocks.

MR. SHEPLEY: Supposing you had two boards of directors just across the street from each other and a security in the nature of stock is being, I won't say peddled about, but being put upon the market. You have two boards of directors with unequal experience in securities; one wisely rejects the securities; another unwisely takes it, or vice versa. You are leaving a great deal there, are you not, Mr. Bradshaw, to the individual acumen of each particular board.

MR. BRADSHAW: In the first place the stock must have been paying dividends for three years preceding the purchase, so it would not be a new stock; and as a rule there

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are on the boards of directors gentlemen of keen sense of finance and they are the best ones, I think to discriminate as between stock. It has proven to be the best way of determining the merit of a security in life insurance in Great Britain, that is to leave it to the opinion of the directors, rather than to legislate as to the character of a stock that a company may purchase or lend upon. The directors, as a rule, are deeply interested in the success of their company, being either very large shareholders or large policyholders and they would have no other interest to serve than the best interests in the recommendation to the board of the purchase of stock.

MR. SHEPLEY: That is if they have no other interest to serve except the interest of the insurance company of which they happen to be directors.

MR. BRADSHAW: Yes.

MR. SHEPLEY: Then assuming that they are gentlemen of wide financial interests in other respects.

MR. BRADSHAW: Then we think that the idea of publicity will check anything in the way of the board of directors investing in securities of an improper character.

MR. SHEPLEY: How do you say publicity with respect to the investments of an insurance company will secure it, unless you make some further provision for publicity as to the interests of the members of the board in the securities that are invested in?

MR. BRADSHAW: The publicity of the annual statement to the Department.

MR. SHEPLEY: For instance, supposing I am a director of an insurance company and I invest very largely in the bonds of some company in, we will say, Peru—because I don't think we have heard of any company yet that has its money in Peru.

JUDGE MacTAVISH: That is about the only country.

MR. SHEPLEY: Now, supposing the returns show the insurance company has invested in the stock or bonds of some company carrying on business in Peru; that will not at all secure publicity as to my interest in that investment. My interest from the standpoint of the borrowing or selling company. How would you deal with that, Mr. Bradshaw?

MR. BRADSHAW: It would have to be left—that case would very seldom arise, I think, if it ever did arise—

MR. SHEPLEY: I don't say that case.

MR. BRADSHAW: Or a case similar to that, it would have to be decided upon by the directors of the company. They would have to be the ones to determine whether the investment in such a security would be desirable or not. That is the view of the Association, that it should be left to the directors.

MR. SHEPLEY: Supposing you have a direction which is under control by reason of one person having a majority or practical majority of the stock? What I wanted very much was to have the assistance of the Managers in respect of questions of that sort because these are very practical questions and questions which the Commission will have to consider.

MR. BRADSHAW: It is impossible to frame a clause or to suggest regulations which will save a company from losses in its investments. I think that that is well known to all financial men.

MR. SHEPLEY: I agree to that.

MR. LANGMUIR: But you may minimize them?

MR. BRADSHAW: Yes, you may minimize the losses, but taking the classes of securities that are enumerated now, there are several there, that no company would invest in and that is simply an illustration of what might occur if enumeration were carried on again.

MR. SHEPLEY: Apparently a good many of the companies would not think of investing now in first mortgage on real estate, because those are not found to be active enough and there have been losses in handling them.

MR. BRADSHAW: They would not, I presume, entirely do without that security. They would invest some of their funds in mortgages. They would not say a mortgage in real estate was a bad security or a security they would not invest in.

MR. SHEPLEY: We have heard it said in respect of some companies that the only substantial losses they have made are in respect of mortgages in real estate.

MR. BRADSHAW: It may be that that company has invested only a very small quantity of its funds in such a security.

JUDGE MacTAVISH: No, quite largely. Would you, Mr. Bradshaw, give us a list of securities which would, in your opinion, be unauthorized if this legislation were enacted?

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MR. BRADSHAW: Which should not be included?

JUDGE MacTAVISH: No, supposing this legislation is enacted, can you suggest any securities that would then be unauthorized?

MR. BRADSHAW: Yes.

JUDGE MacTAVISH: What are they?

MR. BRADSHAW: Well, for example, the stock of the Electrical Development Company is one.

MR. SHEPLEY: Because it has not paid any dividends?

MR. BRADSHAW: Yes.

JUDGE MacTAVISH: Then that stock, if it pays dividends for three years, would be authorized?

MR. BRADSHAW: Yes. The same as the Toronto Electric Light. A first-class stock. Toronto Railway Company. Montreal Street Railway. You would not exclude those?

JUDGE MacTAVISH: Would there be any class of securities that would be unauthorized, if this became the law of the land?

MR. BRADSHAW: Well, the stocks of some of the South American enterprises would be unauthorized.

MR. SHEPLEY: Only because they have not paid dividends.

MR. LANGMUIR: You would include all industrial corporations?

MR. BRADSHAW: There would be no class excluded.

MR. LANGMUIR: It would include all industrial corporations that pay dividends for three years.

MR. BRADSHAW: Every kind of stock, but the choice of these stocks would be left entirely to the directors, which is the practice in Great Britain and the practice in Australia, where life insurance is carried on very successfully indeed.

MR. MACAULAY: It is the practice in every part of the world except Canada.

MR. SHEPLEY: I would like to ask another question with regard to it. You are enlarging the field and abolishing all territorial distinctions so that you enable each insurance company, if it so wishes, to carry practically the whole of its investments, save what is deposited with the Government here, outside of Canada?

MR. BRADSHAW: Yes.

MR. SHEPLEY: Do you think that is desirable from your own standpoint and from the standpoint of the public interest?

MR. BRADSHAW: I would think so. Companies now are enlarging

their sphere of operations; several of our companies are operating in the United States, in Great Britain, some on the Continent, and it seems to me that they should be allowed to invest in the securities of those countries. If the security is sound I do not think that the designation of the security is material.

MR. SHEPLEY: You are proposing, as I understand it, although the clause does not specifically say so, to abolish the restriction that is made upon foreign investments in another clause of the present statute?

MR. BRADSHAW: Yes.

MR. SHEPLEY: That is, you are not restricting foreign investments by measuring them according to the amount required to maintain the reserve there.

MR. BRADSHAW: Yes.

MR. SHEPLEY: It might happen that, with the exception of the Government deposit, a Canadian company might have every atom of its funds invested in foreign securities?

MR. BRADSHAW: Yes. If those foreign securities were good there would be no objection to that. A great many of the British companies invest in foreign securities.

MR. SHEPLEY: No doubt.

MR. BRADSHAW: And another thing is this; our securities in Canada of the first grade, are very limited.

MR. SHEPLEY: We have heard different views about that from different companies since we have been inquiring. Some companies say they have no difficulty whatever in finding all the investments they need, first class investments, without travelling outside the limits of the country. Others say, No, you cannot.

MR. BRADSHAW: Take mortgages on real estate. I think this country will supply all the mortgages on real estate that life companies desire. First bonds on corporations, public utilities, I don't think it will.

JUDGE MacTAVISH: Did I understand you to say that all the funds of life insurance companies could be invested in first mortgages on real estate?

MR. BRADSHAW: Oh no, I do not say that. I say all the funds that they desire to invest, by life companies in that way, all they want in that particular security, can be had in Canada.

MR. LANGMUIR: Can you tell me, Mr. Bradshaw, what other countries

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in the world besides England, permit free trade in investment of insurance funds?

MR. BRADSHAW: Australia does.

MR. LANGMUIR: Does France?

MR. BRADSHAW: I do not know.

MR. LANGMUIR: Does Germany?

MR. BRADSHAW: I cannot say.

MR. LANGMUIR: Does Austria?

MR. BRADSHAW: I cannot say.

MR. LANGMUIR: I understand that none of these countries do.

MR. MACAULAY: I do not know about Germany, but even if Germany did put a lot of restrictions on, their ideals are very different from Anglo-Saxon ideals. So far as I know there is no other English speaking legislature of any consequence in the whole world that puts restrictions on, except Canada.

MR. SHEPLEY: But you are not proposing to abolish restrictions altogether. You are maintaining the guise of restrictions while practically removing all restrictions.

MR. BRADSHAW: We are not claiming that there should be no restrictions at all, and in that respect we are prepared to have narrower limits than all other English-speaking legislatures in the world consider necessary.

MR. LANGMUIR: Is that true of the United States?

MR. MACAULAY: There is no legislature in the whole of the United States, so far as I know, that imposes restrictions on mortgage bonds or goes as far as we have. No State in the whole Union.

MR. SHEPLEY: Let us come back to what is a reality. Is there a single thing except the three-year requirement, that makes this more onerous than the freest country you know of in respect of investment

MR. MACAULAY: No, but I think that is a sufficient restriction. It just means this, that in regard to mortgage bonds we say there should be no restriction at all. In regard to debenture bonds, not secured by mortgage, we say there should be some restriction, but the opinion of the Association was that if the company issuing that had been going for three years that would eliminate new enterprises and would make sure that the company had been in successful operation for at least three years, and that would be sufficient. That in regard to stocks the company again would have had to pass the experimental stage and by paying divi-

dends for at least three years, that those restrictions are all that are needed. As compared with the existing restrictions, we think they are very much better. The existing restrictions, so far as Canadian companies are concerned, give us the right to put money into the bonds and stocks of a long list of corporations without any restriction in regard to whether dividends have been paid or in regard to whether they carry mortgage or not. We say, instead of that, introduce a new principle into our legislation; the principle of making a difference between bonds secured by mortgage and bonds that are not. And we think that is a more business-like and a more valuable restriction than anything in our law at present.

MR. SHEPLEY: But you are not making that distinction, Mr. Macaulay. The only restriction which prevents this from being as wide as the investment power conferred upon insurance companies in any country in the world is the restriction that in respect of certain classes of debentures and in respect of stocks the company must have paid interest for three years.

MR. MACAULAY: But we think that is enough, that is sufficient and that within those limits everything should be left to the directors with full publicity as to what they do.

MR. LANGMUIR: Notwithstanding the restrictions applied in Canada, the average rate of interest received from investments by insurance companies in Canada in 1904 was 4.86 per cent. In Australia, in the last returns, 1902, 4.55 per cent. In the United States, 4.63 per cent. And the last returns from Great Britain, 3.67 per cent. You received the highest rate of return for your investments, in Canada, notwithstanding restrictions. What have you to complain of then?

MR. MACAULAY: The securities that Canadian life companies can invest in in Canada are practically only two. One, mortgages; and the other the securities of the public utility corporations. In regard to mortgages I think I am safe in saying that, with few exceptions, most of the Canadian life insurance companies have abandoned loaning on mortgages except in Manitoba and the North West. I understand the Mutual of Canada invests some in Western farm mortgages, but as a rule Canadian

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life insurance companies are not now very favourable to mortgages in Canada, except in Manitoba and the North West.

MR. LANGMUIR: Owing to the high rate there?

MR. MACAULAY: And they think better security.

MR. LANGMUIR: Very likely. More progressive, perhaps.

MR. MACAULAY: It is not because of interest rate that they have abandoned loaning on mortgages, but because of trouble about the security. It may interest you to know that the only life insurance company which has failed in Great Britain since the passing of the Act of 1870, is the Sovereign Life, and it was due to bad investments in mortgages. That was the cause of its failure, mortgages on real estate.

MR. SHEPLEY: Mortgages are getting very unpopular among life insurance companies here.

MR. MACAULAY: In regard to public utility corporations, while there are restrictions, the restrictions are only in regard to the amount that can be invested outside of Canada. So far as other restrictions are concerned, we have practically no restriction at present. The restrictions we are putting on are narrowing the field so far as Canada is concerned, because at present we can invest in the bonds and stocks, secured or not secured, of a new company in Canada, and we are proposing to cut a whole lot out that the present law might allow us.

MR. SHEPLEY: That is not because you love Canada more, but because you like to go to the foreign field better.

MR. MACAULAY: It is because we think this new plan is safer, that it is far, far superior from the standpoint of safety. In to-night's paper there is an illustration of the folly of confining life insurance companies to Canada. I was reading of the trouble with the London, Ontario, Street Railway. What is the trouble? They may talk about one thing or another, but the real cause is the lack of population. That is the trouble. Now any kind of law that under the guise of paternalism, limits the life companies to Canadian securities, instead of getting them in larger cities in the United States, limits the investment to these smaller cities, simply because they are Canadian, is madness. The life insurance company should be at liberty to take the best

securities, no matter where they are, north or south of the line, take the best wherever they can get them.

MR. SHEPLEY: Ought not the business of your life insurance companies to be increasing the population everywhere in Canada?

MR. MACAULAY: That may be, but are the life insurance companies and their policy holders to be sacrificed for this theory? Security is the first thing, and we cannot get a good security in Canada as in the larger cities.

MR. SHEPLEY: Did you ever hear of an industrial strike on the other side of the line?

MR. MACAULAY: Yes, but I know this, that with the exception of a few cities in Canada, like Montreal, Toronto, perhaps Hamilton, though I am not very sure about that, Winnipeg.

MR. LANGMUIR: Ottawa.

MR. MACAULAY: When you have said those, with a little down at Halifax, and perhaps a little at St. John, you have exhausted the list of available securities in these public utilities in Canada and any law that limits us to that kind of thing is one of the most unwise laws imaginable. Let us get the best no matter where they are.

MR. LANGMUIR: Yes, if you have got an infallible board of directors. I am not going to be invidious, but I must tell you that you are placing the greatest responsibility on your directors.

MR. MACAULAY: That is true, Mr. Langmuir, and the responsibility has to rest there. But my point is this, that you are not going to improve matters by limiting the directors to a narrow field, shutting their eyes to the wider field and limiting them to a narrow field where the population is not as heavy as it should be, and by so doing instead of doing good to the Canadian companies, you are paving the way for losses, you are acting as no friend to the policy holders if you restrict them to this narrow field with small population. Let us get the best, no matter where it is.

MR. SHEPLEY: One other question and we pass to the next, because to-night at all events we can only discuss a few of these matters and not in so great detail as I would like. A good many matters, not touched on here, we shall have to defer, perhaps, until to-morrow. You have provided here for investing the funds of the company in purchase or in loaning. Now how does the body of Managers view the question of investing in spec-

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ulative securities which are going up and down in the market? Buying for a rise or selling for a fall; that sort of thing. What view has this body with regard to that sort of thing?

MR. MACAULAY: Are you looking at me, Mr. Shepley?

MR. SHEPLEY: No, I am pausing for a reply.

MR. LANGMUIR: What Mr. Shepley means is, "selling short or long."

MR. SHEPLEY: Yes, buying on margin, speculating.

JUDGE MacTAVISH: These gentlemen evidently know nothing about that.

MR. SHEPLEY: Speculating in securities that are going up and down in the market.

MR. MACAULAY: That was never discussed in our Association, but I think all would be strongly opposed to buying on margin or anything of that kind. At the same time even the best security, such as the Montreal Street Railway, in spite of the little drop in its price just now, or Toronto Street Railway, they are all subject to little fluctuations on the Stock Exchange, but as long as they have intrinsic value, as shown by paying dividends for some time, the companies must be left to make their choice as to when to buy and to hold them as long as they choose. I do not know any company myself that has been buying for a rise or anything of that kind. I have not heard of it.

MR. GOLDMAN: Take another case, Mr. Shepley; of gilt edged securities going up and down in the market. I mentioned it before when I had the pleasure of speaking to the Commission. Take a security that years and years ago, long before you and I were born, we will say when someone older than any of us considered this question. People used to leave a provision in their wills for a dead sure income for their children by providing for investment in British Consols. British Consols, a word to conjure with, something that an experienced shrewd gentleman like Mr. Kent, would say. I can fancy that twenty-five years ago he would have made a provision of that kind with his conservative desire to be certain; and what are they? From 114 they are down now to 85½ths. I say it with deep regret, that that is the condition. I use it merely as an illustration to show that it is absolutely impossible to get any security that for 20, 30 or 50 years will be beyond peradventure.

MR. SHEPLEY: Is not that a result of the decrease in the rate of interest?

MR. MACAULAY: The increase in the rate of interest.

MR. GOLDMAN: When you come to the cause of British Consols going down, I would have to give you a lecture on that. There are so many reasons for it. The same as the Bank of England increasing its rate to 6 per cent., the other day.

MR. SHEPLEY: I suppose that investment in British Consols is not at all likely to turn out to be a disastrous investment in the sense that you lose your principal?

MR. GOLDMAN: Oh no, it is as absolutely sure as anything can be. But people who had them and desired to sell for division of estate, as happens so often as you know, sir. There is a serious loss. I have known of two or three cases. But you are asking about lending. Just now the rate of interest is 6 per cent. on call loans, and life insurance companies desire to take advantage of that and make loans on gilt edged securities which they can get. It would be a very great hardship—in fact it might ultimately tend to increase the premium rate if the companies were debarred from the privilege of utilizing their spare money in that way, pending the finding of other investments. It would be a very serious matter.

MR. MACDOUGALD: I have a pamphlet here which defines the investment powers of companies in France. If it is of any service to the Commission I would be pleased to hand it over.

MR. SHEPLEY: We shall be very much obliged Mr. Macdougald. I shall put this pamphlet in; it may be very valuable. (Exhibit 683).

MR. MACAULAY: There are **two things that have to be looked at**. It is not enough to know that the interest and principal are secured. British Consols, you know, are absolutely secure, but another thing is essential to safe investment in these securities, and that is that you must be able to get your money back, if you want it in years hence, without loss. Now, we all know that the rate of interest has been rising for a number of years past. I think there is a great deal to be learned from the case of British Consols; they are absolutely secured beyond all question, and yet they went down from 114 to less than 86. Now, apart from the low rate of interest, if a British life in-

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insurance company had invested all its funds in that security, it would be insolvent. The cause is simply that the rate of interest has been going up and up and the present outlook is that it is going to continue to go up. Now, as the rate of interest goes up the value of bonds goes down. This identical question came before our Board last Tuesday, at their last meeting. We were discussing a bond; I would give the name of it, but you all know it, it is a very prominent Canadian bond that we ourselves sold; a bond of the highest quality; you all know it and we ourselves sold \$140,000 of that bond, about four years ago at 111 and a fraction. It was offered back to us just last week at 116½ and urged and pressed upon us and we did not take it. We said, If we take that, in two years time we would have to turn around and sell it at 102. That is the feeling we have got. Not because it is not absolutely secure, because it is as sure as the Bank of Montreal, but because the rate of interest which has been rising in the past, we think is going to continue to rise and that means, if the rate of interest does continue to rise, every company investing in high class bonds is going to lose a lot of money, and if it puts a great deal of its assets in that kind of bonds it is going to get into trouble. I want to impress this fact upon you that if you hedge the companies around with nothing but gilt edged securities, as they are called, if you were limiting them to bonds you would be making it an absolute certainty almost, that the companies would make tremendous losses. That is not a mere matter of opinion. British companies which have been buying them have, as a consequence of their conservatism, made tremendous losses. I can give you some illustrations. Take the Life Association of Scotland, a fine old company of the highest standing. It had to write off in 1901 £163,000 as loss on investments; not because they were bad but because they were too good. They say in their own Report, "The present as it happens is an unfortunate time for the Association to have to make a valuation of its assets and liabilities, seeing that, as is well known, the market values of high class railway and other stocks have, within the last two years"—by stocks they mean preferred stocks—"fallen to a most material extent, and it is with much regret that the directors have to report that notwith-

standing the substantial margin preserved on the last occasion in order to admit of the investments being valued at their present low prices, the large sum of £163,224"—over \$800,000—"will be required to be set aside at this time out of the profits of the past five years." That is for 1901 and I have reason to believe that there is another large amount to write off at this quinquennium. Their powers of investment are somewhat restricted, owing to the Society's act of incorporation. The Report goes on, "Keeping in view that security must be ever the first consideration, the Company had invested a large portion of its funds in first-class investments, investments generally known as gilt edged securities, but as things have turned out it is in this particular class of investment that the falling away in prices has been most clearly shown, in sympathy with the drop in the price of Consols from 114 to 93." It is now down to 86, going right on down. "A possibility hardly dreamed of a few years ago. It is with much regret, therefore, that the directors have to intimate that owing to the circumstances mentioned above, they are unable to make any declaration of bonus to the policyholders on the present occasion." Then there is the Law Life has to write off an immense amount, the exact amount I am not sure. The Star Life wrote off £230,000 in 1904, not from bad investments but because of keeping in these high grade securities which are the ones most affected by the steady rise in the rate of interest. While you make sure, if you put on severe restrictions, that the companies will not lose money, in the sense that they would always get their interest, yet when five years hence they would come to value their securities they would have to pass dividends to their policyholders. It is not enough to know that the rate of interest is secure, but you have to make sure that the money is put into two things that are not going to deteriorate in value as a high grade security assuredly will.

MR. SHEPLEY: As the securities which you are now desiring to invest in will; as time goes on and they become more settled and firm and secure, they will have a tendency to fall, too, will they not?

MR. MACAULAY: Referring to what class? Bonds or stocks?

MR. SHEPLEY: Any class that you are now suggesting you should

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have power to invest in in addition to what you have referred to as gilt edged. Is that not something that will happen with every security which becomes firm and settled?

MR. MACAULAY: It will gradually reach a maximum; then stay steady and perhaps then begin to decline. Bonds, I am speaking of. On the other hand, while bonds are going down, stocks are going up. The very factors which make for a decline in the value of bonds make for an increase in value of stock.

MR. SHEPLEY: I understand that. I am talking of bonds, too.

MR. MACAULAY: All we are asking is that directors of companies shall be at liberty to use their own discretion as to what bonds they shall buy. I am not now saying that we, as a company, would recommend this, because, as an illustration, those first class bonds offered to us, just last Tuesday, we declined, not because they were not safe, but because we said we do not want to make a loss. So that while we certainly think the companies ought to be given permission to invest in these, it must be left to the board of directors to say whether they will do so or not.

MR. GOLDMAN: A question comes up there in respect to the Government Return. A company is required to state its bonds and stocks and the market value. We will take bonds. Bonds which were worth 110 a year ago, this year are worth about 105½, speaking generally. Now that means that companies holding large blocks of these gilt edged bonds, looked on by trust companies and other careful investors, as gilt edged, will show a very large reduction in their statement. I have thought of this matter a very great deal and I do not see very well how it is possible for the Government Return to be altered in that respect. I have thought sometimes that we might take the mean average during the year of the value of a security. It is a serious matter for a company because it cannot divide profits where those bonds are dropping down like that. It means so much to come out of the policy-holders.

MR. SHEPLEY: Does that suggest to anybody's mind that the true course for an insurance company is not to go into fluctuating securities at all, but to lend money upon a fixed rate of interest, so that the

money and the rate of interest may be absolutely secured and can always be got back.

MR. GOLDMAN: Well, what can you do that in?

MR. SHEPLEY: I do not know.

MR. GOLDMAN: No more do I. I have been thirty-six years at this sort of thing and I have not discovered it yet. You cannot do it in mortgages.

MR. SHEPLEY: Why?

MR. GOLDMAN: Well, experience shows that. We have the experience of thirty-six years.

MR. SHEPLEY: If you had expended as much zeal—I do not mean to say you have not expended zeal in every department—but if you expended as much zeal in lending your money upon mortgages upon improved property with a margin of 30 to 50 per cent., at a fixed rate of interest, do you think you would make losses?

MR. GOLDMAN: Well, we will take as an illustration the time we loaned quite freely in Toronto and on farm lands in Ontario. Very careful appraisements were made. The Board would not loan more than 50 per cent. of the appraised cash value. Now, in five or ten years, when your mortgage ran out, had it improved in value? On the contrary, the man defaulted; you went to take the property; you had to pay the expense of foreclosure, taking legal proceedings. Of course that is necessary to-day and we are very glad to have the legal gentlemen protect us in that respect. We had to take the property and to nurse it for some time, we did not get much rent and then we sold it to the best advantage. Now, I venture to say, there is not a life insurance company, a loan company, a trust corporation, taking a period of twenty-five, thirty or forty years, who have loaned money on real estate—I am talking about experienced people, used to loaning money—who will not tell you they have made serious losses in loaning on mortgage investments.

MR. SHEPLEY: They have made losses, but on the whole, with some exceptions that perhaps only proved the rule, have not our loan companies done very well?

MR. GOLDMAN: Well, why?

MR. SHEPLEY: Haven't they? I don't know why.

MR. GOLDMAN: Some of them have. A great many of them had to be amalgamated. We do not want to

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take the skeletons out of the closet, but we all know about the amalgamations that took place, the state of affairs that was found. They could not have gone on very long and continued to pay dividends.

MR. MACAULAY: It is well known that the Ontario loan companies were in a deplorable condition. That was common talk. And a few years ago a number of the largest life insurance companies in the United States were in a very bad condition owing to losses on Western farm mortgages.

MR. SHEPLEY: We know a good many estates which lent money upon mortgages and which earned a steady income of 4 or 5 per cent. and do not make losses. There may be something inherent in the management of a loan company or of an insurance company with respect to these matters, but individuals who lend money judiciously do not lose it.

MR. GOLDMAN: At the time they got money at $3\frac{1}{2}$ to $3\frac{3}{4}$ and were out the difference between what they paid for their money and what they loaned it out at, they were able to pay their expenses and provide a contingent fund for losses, which is not shown, the same as banks do. With respect to individuals, most estates are moderately small. \$25,000 to \$100,000. I will take \$100,000 and guarantee people a certain rate of interest. In the case of life insurance companies we are dealing with millions. It is an increase in quantity and we cannot see every piece of property individually ourselves, as I would if I were a trustee. We have to rely on someone else. As an illustration we have commenced to lend up in Manitoba and I have been up there so often and looked over the conditions and I felt that we could not do it unless we got an experienced man, on a good salary, as manager of the Loan Department. We took him from a loan company. I felt that was the only way we could protect our interests, and I feel, notwithstanding that we are all gliding along—they tell me when I go up in the West that I am ultra conservative—I am, I admit it—but I feel that there are going to be losses; it all looks very beautiful, but unless we provide for it there are going to be losses there.

MR. MACAULAY: Your Honours, when I was over in England this summer I went to Mr. George King, the most prominent consulting actuary in England, and I got an opinion from

him on a number of questions. I think that perhaps your Honours would like to know what is thought by perhaps the greatest English authority, actuary, now living. I might say that Mr. Shepley has this.

MR. SHEPLEY: Yes, Mr. Macaulay has been good enough to send me a copy of it and it is before the Commission and will be thoroughly considered. I do not think you need be at all alarmed that that will not find itself very fully before the Commission.

MR. MACAULAY: Very well, then I do not desire to take up time with it now.

MR. SHEPLEY: I do not think in respect of lending money as distinguished from purchasing, that you make any distinction between the class of securities. That is any substantial distinction.

MR. BRADSHAW: I do not.

MR. SHEPLEY: That takes us down to the end of the clause with respect to investments.

JUDGE MACTAVISH: As to subsection A. The clause reads, "Any of the bonds, stocks, shares, debentures or other securities mentioned in the preceding section." Do you interpret that clause authorizing the lending of insurance funds on the securities named irrespective of whether the companies have paid interest or dividends for three years,

MR. MACAULAY: No sir, the intention is those that are permitted in the preceding section.

JUDGE MACTAVISH: The reading would rather imply that you may lend on these securities without the conditions named.

MR. MACAULAY: Permitted by the preceding section.

MR. BURKE: Under the same conditions.

JUDGE MACTAVISH: Then we come to the granting or accepting of a rebate of a life insurance premium. There is no uncertain sound about that clause.

MR. SHEPLEY: That requires some discussion in detail. I should like to have the views of the members on the nature of the legislation they would recommend.

JUDGE MACTAVISH: Yes, as to how it could be prevented.

MR. SHEPLEY: I was about to point out to your Honours that it is now 10 o'clock, and if the gentlemen are disposed to accede to what I think is the universal view, so far

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as the Commission is concerned, that we should not unduly hurry through this, I would suggest that we meet again to-morrow at a quarter past four and endeavour to complete the discussion between then and the time when the gentlemen will desire to leave. Perhaps we might have some informal expression from the gentlemen who are present and whose views we are so anxious to have, that they will try to make it convenient to be with us again to-morrow.

MR. HILLIARD: Your Honours, any enactment, to be effective, must include the voiding of a policy granted in connection with a rebate. That will stop it effectively and nothing short of it, I think, will do it. That is my opinion. I have not time to stop to argue it out. The man who gets the policy, if the policy states on its face plainly that it will be void in case a rebate was given of the first premium, then that man doesn't want it and won't take it as a gift.

MR. SHEPLEY: If it is put in large letters?

MR. HILLIARD: Yes, red ink, if you choose.

MR. SHEPLEY: I am very sorry you cannot stay with us to-morrow. It has been suggested by Mr. Macdougald that we might, perhaps, make more progress if we could meet in the morning. The difficulty with regard to that is the one your Honours are aware of with respect to myself. This is so important that I feel it necessary to be here, and yet the other tribunal in which I am concerned, of course, does not wait for anybody. I have to be there, and, much as I regret putting anybody to inconvenience, it is quite impossible that that should be done unless we were to sit at an hour in the morning that would frighten everybody, and try to make progress then. I am very sorry, but these things will happen and it is quite impossible to prevent them, much as I regret it. Of course, we would have had an hour and a half, or perhaps two hours, this afternoon, if we had been ready to proceed. I think we can make great progress between 4.15 to-morrow afternoon and 10 o'clock in the evening. I think perhaps we can clean the thing up pretty well, including the subjects that are not dealt with here. No doubt there will be some matters that are controversial, but we are all, of

course, seized with the desire to facilitate, and I am sure the gentlemen who are here to-night have done that, all of them.

MR. KENT: Will they all solemnly promise not to run away in the interim?

MR. GOLDMAN: I have to go back to-night. I was a long distance away and I came back especially to be here. I am sorry I have to go away.

MR. MACAULAY: Some of us can stay, your Honours, but I am afraid we will have a rather slim attendance.

MR. MILNE: I have to be away your Honours, to-morrow morning.

MR. DEXTER: I would like to say that the gentlemen who remain will be quite competent to give you the information as well as if the whole of us had remained, except perhaps, Mr. Goldman, who is exceptionally well informed in these matters.

MR. SHEPLEY: May I make this suggestion to the gentlemen who will not be able to be here. If they will send me a memorandum upon any of these subjects, their memoranda will have every attention, just as though they expressed their views here and they went down upon the notes. I shall be very punctilious about that because we all feel that the expression of your views in the freest manner is something of the greatest value to us. Mr. Geary informs me that the Policyholders' Association of Ontario intend to be here to-morrow to express their views and that may be a matter of so much interest as will decide any wavering manager whether he will stay or go.

MR. ROSS: They will be ready to present their views to-morrow at 12 o'clock.

MR. SHEPLEY: I think it is better, perhaps, that we should have a general discussion when all are present, from both standpoints. It is just within the bounds of possibility that the policyholders may desire to criticize some of these views, and I daresay that their views, perhaps not many, but some of them, will perhaps be the subject of criticism by those who view the subject from the standpoint of the managers. I do not know that we can look for anything more likely to result in good than that there should be a free expression of views while both are present.

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MR. KENT: If the policyholders come to Ottawa prepared to go back home almost as soon as they arrive, we are not likely to derive much benefit. The result of all this will be that when the Bill is before the Committee of Banking and Commerce, or whatever Committee it goes to, all these gentlemen will be present to state that they dissent from this, that or the other clause, and that the Commission has erred to a very great extent in recommending this, that or the other legislation.

MR. SHEPLEY: I fear very much that that may be the result, no matter what happens before your Honours, but you are, of course, all well aware that Mr. Hellmuth and Mr. Geary are peculiarly charged with presenting the views of the policyholders, and I feel very unwilling to make any suggestions to them at all, confining or limiting the expression of those views. It would not be proper that I should.

JUDGE MAC TAVISH: They must have ample opportunity to express their views before us, even if it is by way of preparation for appearing before the other Committee. They must have the opportunity at all events to present their views to us.

MR. SHEPLEY: Then one last suggestion. The gentlemen who remain over, belonging to the Managers' Association, might possibly between now and a quarter past four to-morrow, be able to agree upon some other points that have not been embraced in this particular memorial.

JUDGE MAC TAVISH: Quite so. The suggestion is that we shall not adjourn until half-past four, but until 12? Or do you suggest that we should not take up the Policyholders until we have concluded the conference with the Managers?

MR. SHEPLEY: I think that in the informal way in which necessarily and very properly this discussion has been going on to-night and will go on to-morrow, it is very likely that there will be an interchange of views and I would not myself counsel maintaining a strict line of demarcation between the views of one party and the other. I should think a free interchange of views would be the very best enlightenment we could have. I

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would suggest a quarter past four because of the reasons I have stated and because I feel it due to Mr. Hellmuth and the Ontario Policyholders that I should endeavour to be present when they are here.

MR. MACDOUGALD: Could Mr. Shepley indicate in a few words what questions are likely to come up before us to-morrow which are not the subjects of this memorial, so that we would have some opportunity of turning them over in our minds?

MR. SHEPLEY: I have not examined this with care, but I could indicate the question of initial expense of insurance; the frequency of distribution of profits among those entitled to profits, or at all events allocating profits more frequently than is done now and notifying the various policyholders of what the allocation is. Those are questions, I dare say others will suggest themselves to you, that may be the subject of discussion. While we do not feel ourselves bound by any views expressed, yet we do not want to leave any questions undiscussed.

JUDGE MAC TAVISH: Also as to the right of policyholders to vote, and the facilities for exercising the franchise if they so desire, that is an important question, upon which we would like the views of the Managers' Association.

MR. SHEPLEY: Then, some of the Managers have made a study of State insurance. On that subject we would like to have their views.

JUDGE MAC TAVISH: If these questions that Mr. Shepley has just suggested have not been considered by the Managers Association, I think that their time will not be lost if they consider them between now and four o'clock to-morrow afternoon.

MR. MACDOUGALD: We have had them under review. Some of them are referred to here.

JUDGE MAC TAVISH: Then we will adjourn the public sitting until a quarter past four to-morrow afternoon. The Commission will meet as usual as half-past ten in the morning.

(At 10.15 p.m. Monday, the 12th November, 1906, adjourned to 4.15 p.m., afterwards changed to 2.30 p.m. on Tuesday, 13th November, 1906.)

NINETY-NINTH DAY.

Policyholders' Association.

Ottawa, November 13th, 1906.

POLICYHOLDERS' ASSOCIATION.

MR. HELLMUTH: Mr. Chairman and Gentlemen, the Policy Holders' Association have present to-day two members of that body, Mr. Robins and Mr. Christie, who have been requested by the Counsel prosecuting the inquiry, Mr. Shepley, to lay their views on the matters pertinent to their Association—and perhaps we may say pertinent to this Commission—before your Honours. These gentlemen are here, and although they are not here in the sense of witnesses, they are here as other bodies have been here, to give their views upon the questions before us. No doubt matters may arise both at the instance of the Board, and at the instance of counsel, and they will perhaps elucidate any statements they may make further than they might be prepared to make them without such inquiry. The Policy Holders' Association is known as the Policy Holders' Association of Canada, and I may state for your Honours' information that it is an incorporated body. I think perhaps it might not be out of place to put in a copy of their by-laws, so that you would have before you the object of the Association. (Exhibit 684). I understand the incorporation was on the 5th of June, 1906. I understand—and no doubt it will be more fully explained by these gentlemen—that it is proposed to hand in a memorial in more formal shape than the evidence which will be given here, or rather the statements that will be made to-day, as to some, at all events, of the requisitions in regard to legislation or otherwise, emanating from this body, and also views concisely put on some of the subjects that you have before you for consideration. Mr. Robins is the Vice-President of the Association, and naturally perhaps should be the first to address your Honours upon this matter.

JUDGE MAC TAVISH: We will be very glad to hear what Mr. Robins has to say on behalf of his Association.

MR. ROBINS: I thank you, gentlemen, for this opportunity of appearing before you, and I think it only right that I should premise what I have to say with the statement that I can hardly claim in a full sense to represent the Association, for the reason that it is at present in its in-

fancy, and that there has really been no opportunity for a full meeting of its present membership for a discussion of the very important subjects which have come under your inquiry. It was a matter of deliberation whether the Association should be represented here at all, but it seemed to be the final opinion that it would be better that one or two of us should come down and throw out a few suggestions, than that we should be entirely unrepresented. But I wish very carefully to guard my own remarks from being put forward as the official views of the Association. As I say there has been no opportunity to arrive at definite conclusions. On one or two broad points however I think I might claim that practically we are all agreed, and the most important of those I think is the great necessity, as has been brought out by these inquiries before you, for a more thorough safeguarding of the interest of the policy holders. The Association does not, I am sure, nor do I, wish to appear in any light as an alarmist but I cannot close my eyes to the condition that there has been revealed already sufficient of very serious departure from that which is right and prudent in the management of life insurance to call for very serious consideration. And my own view is that what we should aim at is in the future to safeguard policy holders, not only from a repetition of such abuses as have already crept in, but from any abuses which are manifestly possible under the existing condition of things. I have thought over this matter a great deal, and in my own mind I have come to one or two conclusions; I do not know how they will appeal to you, nor how they may appeal to the great body of policyholders throughout the country, but to my mind the two most important considerations, the two most important things for policy holders to aim at is the proper representation of policy holders in the management of insurance companies, so far as the investment of the funds is concerned. The great bulk of the funds administered by the directors of the Life insurance companies, the moneys of policy holders, the money belonging to the stockholders of those companies is a mere bagatelle as an element of security for the policy holders, and it seems to me highly anomalous that under those conditions the sole control of these very large sums of money should be in the hands of parties who own only,

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say a percentage of it. My recollection is that at the end of 1904 the capital of stock holders was less than five per cent. of the insurance funds managed by the representatives of the stock holders. I hardly will venture to suggest how this representation of policyholders might best be accomplished. I fully realize in the course of the efforts which I have been making towards the formation of the Policy Holders' Association the very great difficulty that there is and must be in getting a representative body into the Association, and if that were accomplished, in putting forward men both competent and with time and willingness to represent the policy holders adequately in the way I have suggested; and in consequence of that, it has occurred to my mind that perhaps the most feasible representation of policy holders would be through Government appointment of men who should sit on every life insurance board as the direct representatives of the policy holders and nothing else. And it seems to me that would simply be an enlargement of the functions of the present Superintendent of Insurance. I take it that he is to all intents and purposes the representative of the policy holders, but with somewhat limited powers, and with no standing and with no right to be represented in the way that I have suggested. I think I may say that so far as my own cogitations have gone, I am inclined to think about the only practical scheme would be for the Government to appoint a man, or more than one man, as the policy holders representative.

MR. TILLEY: Without any recommendation do you mean?

MR. ROBINS: I do not quite gather what you mean.

MR. TILLEY: Without any recommendation from the companies or policyholders.

MR. ROBINS: I would say, quite independently of either. I think if sufficient salary were offered it would be very easy for the Government to get men who would be altogether satisfactory to both companies and the policyholders, and they would probably have the advantage of getting men who would have a technical knowledge on the subject which the average business man has not. Speaking on my own behalf alone—I do not know how the Association might feel on it—I am altogether in favour of a very considerable widening of the

investment powers of insurance companies. I can see very clearly that their avenues for investment within the legalized limits at present are very much narrowed. The proportion of capital seeking such investments is growing faster than the supply of such securities, and, for my own part, I think that if there were the proper and full supervision, the full knowledge on the part of the public and the Government of what was being done, that such gentlemen as usually sit on our representative insurance companies might well be trusted as to their investments. It seems to me that where the funds are so large there would be no element of danger, because the funds are large enough, and they would be spread sufficiently to produce a safe average, and what would not be advisable in the case of a small fund such as the individual insurance for the protection of a man's family—because then a small loss might be very serious—would be proper enough in these large investments. I think that consideration disappears where we are dealing with the million dollars. It might perhaps be wise to legislate as to the percentage of the funds which should be invested in any one direction. That might perhaps be thought advisable, but for my own part as a policyholder—and I hope as a man taking a prudent view of life insurance—I should not at all object to a much wider latitude in respect of investment.

MR. TILLEY: You would have restrictions, would you, on investments?

MR. ROBINS: In what way do you mean? As to the percentage or as to the nature?

MR. TILLEY: As to the nature of the security to be invested in.

MR. ROBINS: Oh, yes; I think I would. I think there are investments which all reasonable men will admit should be outside of the category of life insurance investments, but there are a great many things I think which are not legalized as investments of insurance companies which might very well be brought within the list.

MR. TILLEY: Did you read the memorial that the managers presented yesterday?

MR. ROBINS: Yes, as it appeared in the paper this morning.

MR. TILLEY: What would you say as to the clause they suggest?

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MR. ROBINS: I am afraid I do not quite recall it. I know they touched on that subject.

JUDGE MAC TAVISH: Shortly, their recommendation is that the investment power should be absolutely unlimited, with this one exception, that when the investment is in the stock of a company that company must have paid for the three years next preceding the date of the purchase interest or dividends on that stock.

MR. ROBINS: Yes, I recall that, your Honour.

JUDGE MAC TAVISH: That seems to me the only limitation, is it not?

MR. TILLEY: Well, there was a similar limitation somewhat in the est on those debentures for three trust mortgage.

MR. LANGMUIR: Not secured by mortgage.

MR. TILLEY: If the bonds are secured by mortgage no limitation, but if they are not secured, then there is that limitation.

JUDGE MAC TAVISH: The limitation was that no default should have been made in the payment of interest on those dividends for three years.

MR. ROBINS: Well, from my experience of some three years ago in municipal debentures, I think that would be entirely safe. I remember some 21 or 22 years ago I got Messrs. Crombie, Crombie and Worrell to investigate the debenture situation in the province of Ontario, and I found that up to that time there had been only nine cases of even temporary default in payment of interest.

MR. TILLEY: That is municipal debentures?

MR. ROBINS: You mean company debentures?

MR. TILLEY: Yes, the insurance managers would go so far as to permit investment in industrial enterprises that issue debentures.

MR. ROBINS: I would quite favour that.

JUDGE MAC TAVISH: For instance, in the T. Eaton Company or the Robert Simpson Company, I suppose?

MR. TILLEY: Yes, even a commercial undertaking.

MR. ROBINS: For my own part I would be perfectly satisfied with that, because the most profitable things on the average are industrial enterprises, and, provided there was a proper supervision, and a proper

privity on the part of the public as to what was being done, I would be perfectly content for my part to leave that matter very largely where it is.

MR. LANGMUIR: While you as the policyholder may be content, do you think that, looking to the future of that money derived from the policy—that it is to go to the widows and orphans—do you think that it would not be a very great risk to them?

MR. ROBINS: I do not think so.

MR. LANGMUIR: Depending entirely upon that?

MR. ROBINS: I do not think so. Let me go back to the illustration I gave before. If I leave only a very limited estate for my family, every dollar of it is of importance, and, therefore, it would be very right and prudent, I think, that I should make the utmost safety the very first consideration, but where there is \$10,000 or \$20,000 invested, not ear marked for this beneficiary or that, if there be a risk, it is spread over the whole of their funds; and I take it that a board of directors of ordinary prudence and experience, with this privity, as I say, of your representative policy holders as to what was being done, and the full knowledge of the Government, as I am going to come to presently, as to what is being done, my own judgment is that it would be a perfectly safe situation. It is not as though the assumedly absolutely safe investments were always safe. I may say, as to my own experience, that I have made losses when I thought I was making the very safest investments. A few years ago I made a little investment and gave it to my wife. I thought there was no peradventure about that investment, but it turned out unfortunate, and we have seen mortgages fail to yield the amount of money loaned on them, and so on.

The second thing in point of importance, it appears to me, is that the Government should know absolutely what the investments of these companies are. At the present time they are depending upon an annual statement. That annual statement may be true as to the date at which it is made up, but even so, for the other 364 days in the year it may not have been the correct state of affairs. Moreover, we have seen that in some instances these statements have been manipulated, now the only

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correction, the only perfect correction, of that weakness which occurs to my mind is that the securities of these companies should be absolutely in the custody of the Government, lodged with the Government, so that the Government knows absolutely whether a statement is true or false, and there would be no question whether a statement on the 31st December is a fair representation of every other day in the year. I will not enlarge upon that, but simply throw out the suggestion.

MR. LANGMUIR: Would that cover all kinds of securities, including mortgages?

MR. ROBINS: I would say so, including everything.

MR. LANGMUIR: Then the department would have to have a set of books for all mortgages, the maturity of interest and the interest instalments and all that; and how would the money received from mortgages be taken? Would it be paid as it falls due to the Government on account of the mortgage?

MR. ROBINS: I should hardly think so. I did not think of that before, but your remarks lead me back to a condition which I remember thirty years ago as obtaining with regard to the implement concerns. They discounted their paper with the bank and put up as collateral security the farmers' notes which they took, and they were called upon to put up a certain percentage, sometimes twenty-five per cent., and sometimes thirty-three per cent. They received the money for those notes as they were paid, and when they went to take those notes out they had to replace them, if it would deplete their margin. It seems to me that the Government should deal with the matter somewhat in that same way. It would not be necessary that they should get down to the final dollar. If a company is handling twenty million dollars of money, a leeway of half a million or a million is of no great consequence, and it seems to me it would be a very simple matter as mortgages fall due, or as the companies wanted to take out securities, if they proposed to sell them, to go and get them, and they could replace them with whatever securities they wished to bring. If it were made obligatory under penalty upon the companies as they possess themselves of securities to lodge them with the Government, then I

think that would work itself out without very much trouble, and, to my mind, it would be an absolute solution of the present weakness.

MR. LANGMUIR: You see nowadays the modern way of dealing with mortgages is different from the old-fashioned way. The annual instalments are payable almost altogether on mortgage statements of account.

MR. ROBINS: Just so.

MR. LANGMUIR: Very frequently if a farmer came in and wished to pay his annual instalment, the old-fashioned way was to endorse it on the mortgage, and very often they have to see the mortgage. You know that. Your own experience will tell you that. I can see that the lodging of debentures and bonds and coupon securities might be carried out. There may be something in what you say that if two millions of mortgages are deposited in order to make up a certain aggregate, that you would demand two and a quarter millions so as to have a margin to work upon.

MR. ROBINS: The way in which it strikes me is this; we see on the part of the companies a great ex-patiation upon the fact that they have the deposit with the Government. Those Government deposits amount to nothing, and yet a great point is made of them by a good many companies in their advertising, and the public are greatly assured by the fact that the Government is holding the funds. I think that would be the greatest canvassing card for the insurance companies, and I think it would greatly stimulate insurance. It would remove all possible doubt from the minds of the public, and I am quite sure at the present time there is no little doubt in the minds of the public as to the safety of life insurance in general. Another suggestion I would like to make is that the policies should be standardized. I think that is a very important thing; that policies purporting to be the same should read in the same way; so that the average man, who does not know very much about insurance anyway, and cannot hope to, shall have before him a simple proposition.

I would also very much like to see the business of life insurance confined absolutely to life insurance in one or other of its simplest forms. I should like to see eliminated everything which is not life insurance, everything which is more investment than

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life insurance. Of course if a man takes a policy on the endowment plan there is an element of investment in it, but at the same time it is fully life insurance. I should, however, like to see eliminated all these modern propositions which have the effect of twisting around, and all sorts of propositions which vary from the propositions of the other companies. I think it is one of the most mischievous things introduced into life insurance in the period of its history. I think also it should be difficult for a company to become a life insurance company. I think it should be the most difficult of all organizations. I think no company should be allowed to begin business until it was shown to be a substantial organization and we should see no more of such exhibitions as was witnessed in connection with that company in which Mr. Ostrom was concerned. I think any exploitation of life insurance in that sort of way should be made absolutely impossible. I think also that companies should be compelled to carry on policies upon which the insurer has failed to pay the premium as long as there was a dollar of office value left. I do not think it should be a matter of negotiation with the companies about carrying that thing on. I think it should automatically carry itself on to the extent of the reserve represented by that policy in the office. I think also that there should be a limit to the dividends payable upon life insurance stock—a reasonable limit. I begrudge no man a fair return on his money, nor a fair remuneration for his services. I believe in everything being well paid for. I have always tried to be well paid myself, and I like that sort of thing, but we see gas companies, street railway companies, and water companies chartered with a condition that the stockholders shall draw no more than a certain dividend, and I think in this connection I would hardly call life insurance a business. To my mind it is something almost holy and I think in my experience some such limitation as that should be made.

MR. TILLEY: What would you suggest? Have you thought of that?

MR. ROBINS: No, I have not. I would prefer to throw out general ideas rather than to go into details, because I do not want to assume too much. I am no better judge of these things than any other man. These

are general thoughts that occurred to me. And I would prohibit everything in the nature of watered stock or bonused stock. A company having started off with a sufficient capitalization to justify its doing life insurance business, I think there should be very great reasons before there should be an increase of the capital stock.

MR. TILLEY: Do you believe in compelling companies to mutualize at a certain time?

MR. ROBINS: No, I do not. My own preference is for a stock company. I think directors are more likely to be interested where they have a financial stake than where they have not. Perhaps it is not necessary for me to refer to the question of rebating. I fancy from what I have read in the newspapers that every member of this Commission shares my opinion with regard to that subject. I may say I have never accepted a rebate, and I have on numerous occasions shown men the door of my office when they have suggested a rebate, and I sincerely hope that that matter will be dealt with in the most drastic manner. I should suggest, with less conviction perhaps than with regard to some of my other suggestions, that this canvassing for proxies by or on behalf of directors of companies should be stopped. I do not think it is a very good thing, and I think if a shareholder who is entitled to attend a meeting of an insurance company does not choose to go there he had better not be represented, because if he gives his proxy to some inside party, it might simply be handicapping the policy holder that does choose to go there and try to exercise his influence.

I think, gentlemen, that is the limit of what I wish to say. Again I thank the Commission for their kindness.

MR. HELLMUTH: You have spoken about the removal of restrictions or the extension of investments. I understand that in regard to that you are giving your individual opinion purely.

MR. ROBINS: Purely.

MR. HELLMUTH: Not the opinion of the Association?

MR. ROBINS: I do not pretend in any word I have uttered to represent the Association.

MR. HELLMUTH: I thought you had made that clear. Have you considered at all the position of investment by an insurance company in

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stock itself, as distinguished from an investment in the bonds of the company, that in the one case you are simply lending money to the company, and in the other case you are becoming a full partner in the business of the company, whether it be to run a railroad or a departmental store or any other purpose? Have you considered if an insurance company should, as an insurance company, become a railroad company, a departmental store company, a gas company, or that it should merely lend money to those companies as it would do if it were buying the bonds of those companies?

MR. ROBINS: In the first place I do not quite agree with you that to buy stock in a railroad constitutes a railroad company.

MR. HELLMUTH: No, of course not.

MR. ROBINS: And I conceive that it is scarcely probable that an insurance company should buy enough of the stock of any such enterprise to be in control of it.

MR. HELLMUTH: Supposing I were to tell you that one insurance company in this country is the stockholder of the majority of stock in one of the largest street railway systems one of the states of the union, would you consider that—

JUDGE MAC TAVISH: And looks upon that as better security than certain other classes.

MR. HELLMUTH: And a perfectly legitimate enterprise.

JUDGE MAC TAVISH: And desires to be in control either by itself or its friends.

MR. ROBINS: In anything I say now I am pre-supposing that certain conditions which I consider necessary for the improvement of the insurance situation are brought about. If there were this representation of policy holders on the board, if there were this custody of all the securities by the Government, and consequently a full knowledge of what the investments were, and if there were this publicity which would arise from that condition of affairs, then I do not think any life insurance board would make so big an investment in any one direction. I am simply looking at the probability as it strikes me as a business man. I would not consider it prudent to invest more than a reasonable percentage in any direction, I do not care how good it might be considered, but as to the difference between the bonds being security—of

course they are—and the other being a risk of business, the view I take is this; that if I have a hundred different investments in industrial enterprises, to which I have given reasonable consideration, while one or two may disappoint me, the net result as represented by the dividends as against the interest rate on the bonds and debentures, will be a satisfactory result to me. I am purely going upon the average to be expected from a broad investment.

MR. HELLMUTH: I was only taking it up in this way; you suggested that insurance was something holy, something by itself, and I took it from the nature of your remarks that you looked upon the insurance company directors as the trustees of—

MR. ROBINS: I do, quite so.

MR. HELLMUTH: Of the money of the policy holders.

MR. ROBINS: Quite so.

MR. HELLMUTH: Now, as a matter more of principle than amount or degree, does it not strike you that you would be a little surprised if your trustee were to put your money into a venture, instead of lending your money; that is to say, that he were to buy the stock and become a little or a big partner in a concern, rather than the lender of money to that concern? In the one case he has the whole of the stock as security, which has to be wiped out before a dollar of bonds representing the money is touched. In the other case the bond holders may wipe you, as a stock holder, out, if there is any loss.

MR. ROBINS: I quite appreciate all that, but I do not take any stricter view of this insurance question than I take of my own estate. Now I have left to my trustee just such a discretion as I would propose to give to these trustees, and I have done it because in several instances with which I have been quite familiar, where a man has tied up his trustees, it has been very unfortunate. I know of three cases in this city where the testator tried to look into the future further than is given to the ordinary man to look, and he hampered his trustees, to the detriment of his heirs, and in two of those cases the courts have given relief because of the condition of affairs. Now all that you say is true. I do look on this as a holy sort of thing. I look on the insurance directors and

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managers wholly as trustees, but I say, provided the insurance business is surrounded with certain conditions, I believe the boards would be such as would be trusted to make prudent investments, and I would be perfectly willing that my interest or my interests in insurance should be dealt with in the same way as I am satisfied that my estate should be dealt with by my own executors.

MR. HELLMUTH: You did say that one of the elements of security, perhaps an element that was as strong as any, was the utmost publicity; that is that the report should show the holdings in every respect, subject to all the criticism the public would give it?

MR. ROBINS: Yes, and at the time the investment was being considered, if there is a direct representative of the policy holder there, that is the time for publicity, and I take it if such a representative policy holder should see any objection to investments, that would have great weight naturally, particularly if he were a Government appointee.

MR. HELLMUTH: You are aware, I suppose, or perhaps I am misinformed, that your view as to this widening power of investments is not shared by all the policy holders?

MR. ROBINS: Oh, by all means, I am quite aware of that, but I do not hesitate to express my opinion.

MR. HELLMUTH: We are very glad to have it, and I am sure the Board are glad, too.

MR. ROBINS: I quite understand. I encountered that myself, but I must say that I have frequently been able to convince the other man. It is well to have differences of opinion very often.

MR. LANGMUIR: Would you widen the character of the securities so as to leave the whole world open?

MR. ROBINS: I would rather widen them as to class than I would as to geography. I think a great deal depends on whether you know what you are dealing with. When these insurance managers suggest, as I believe they do, that they should be at liberty to invest in the securities of a foreign country in which they may be operating, I should want to think that over before falling in with that view. I have travelled myself and I know to some extent how very different the conditions may be in foreign countries. We will assume that a company with its head office

in Canada is doing business in one of the South American countries. The men who are sitting on that board—perhaps not one of them—have ever been there, nor to a similar part of the world, and have no knowledge of the conditions whatever, and are solely relying on the representations of a man who may be very much interested. I see an element of danger there far greater than any element of danger in the widening of the class of securities, and I should hesitate very much to fall in with that idea. I was down last summer in New Mexico, and some of our Canadian companies are operating down there. The Manufacturers' Life man came down while I was there to open an office, and the Confederation Life man was already there, and I do not know but some others, and although I was only six or seven weeks in the country, I was there long enough to find the difference. It was a place where you would need to know a good deal before you put up much money. So that I think my own suggestion as to broadening the class of investment is a good deal safer than that.

JUDGE MAC TAVISH: I understand you to convey the idea that your suggestion as to enlarging the scope of the investments presupposes that the safeguards that in your opinion are necessary would be first enacted?

MR. ROBINS: Yes, some means by which the policy holders can be privy to and consenting to these investments, and some provision by which the Government is not dependent upon any written statement as to what the securities of the companies are. Those two things I consider absolutely essential, and they are conditional upon every other obligation—

JUDGE MAC TAVISH: And with these safeguards you think the investment question would be an easy one?

MR. ROBINS: It would take care of itself.

MR. HELLMUTH: Mr. Christie, the secretary of the Association is present to-day.

JUDGE MAC TAVISH: We would be very glad to hear him.

MR. CHRISTIE: I have lodged as a production a copy of the constitution and bylaws of the Association, and while there are a great many powers embraced in these articles, the main purpose for which we are incorporated is to see that whatever

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conditions this Commission may make on behalf of policy holders as to future legislation should receive the support of our members, and that we should on behalf of our members do all that we can to support such recommendations.

The first point on which I wish to address your Honours is on the policy contract itself. It seems to me, and to the members of our executive, that as time goes on the insurance companies are largely departing from what is straight life insurance, and are seeking to build up what is really an investment. The average insurer to-day takes the policy with the object of providing for the event of his death, and with a great many of the policies that are issued you will find that that element is largely obscured by the investment part of the policy. From a policy with three or four options, we are now finding a policy with six or seven options which a man may exercise at the end of twenty years. Why a man should tie himself up to that kind of contract at the present day is something we cannot imagine, and we would maintain that if legislation is brought into force as a result of this inquiry that a restriction should be placed along the lines of the contracts that are to be issued by the companies. We maintain as an association that insurance policies should directly bear out the relation for which they were originally intended. In other words we believe that there should be a standardization of policies. Whether a man elects to pay premiums during the remainder of his life, or through a period of ten, fifteen or twenty years, is a matter which might well remain within the election of the company or the proposed insured. And in addition to that we believe that the endowment policy is such a policy as should be standardized, because in many cases the proposed insurer could not get insurance on any other plan. It is a more costly form of insurance I believe, and consequently the company might take impaired risks that they would not take on the limited payment plan or the ordinary life. We believe that this question is deserving of the most serious consideration, and that in whatever recommendations you should make, you should recommend that policies be standardized. Probably there may be one or two other plans, but they are not in my mind just now. At any rate those are

what we consider to be straight life insurance contracts, and we think that those powers of election and so on should be eliminated and that the investment feature of it should be cut out as far as possible. Then again, before any policy can come into force, there is a question of consideration. The companies have seen fit to accept notes in settlement of premiums, and I submit that this lies at the crux of the whole question of life insurance at the present day. An agent is anxious to insure a prospect. The man may or may not be in a position of being able to pay his premium, but the agent in his anxiety to secure the application will take a note at six and seven months from date. Now, I submit that a policy contract is in esse such a contract, that no man should enter into it unless he is in the position to-day to pay his premium, and I do not care whether the premium be an annual premium or a semi annual premium or a quarterly premium. I submit that before the company should issue the policy they should at least receive payment of the first premium in cash. We have instances brought out in the evidence where companies have advanced amounts of money to agents in order that they may secure business on the strength of notes which have been taken in settlement of the premium, and we find that a great percentage of the business written on that basis lapses. Now, not only are the companies suffering the expense and trouble of securing those applications, but they are also suffering very material loss in the advances which are made to agents on the strength of that business, and they are encouraging what has come to be known as the rounder, who takes business to one company so long as he can secure advances, and then when such advances cease he proceeds to go round again and write the same business in many cases for another company. And again in many cases there is a hardship upon the prospective insurer and upon the policy holder inasmuch as the farming community, and the more ignorant class of the community in general, are not aware of the nature of the obligation into which they are entering. It is true that the companies very often give the greatest consideration to the policy holders in the settlement of their notes, and it is also true that in many cases they seek to avoid pressing for payment of those

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notes. But it must be borne in mind that during the currency of those notes the company has carried the risk and that there is a positive injustice to the policy holder who has paid his premium in the event of the person assured under these notes dying during the interim, and it might well become a serious question for a young company anxious to get business, as we find they all are, upon any consideration at all. If that matter were dealt with, it would be, to my mind, a step towards the solution of this question of expense. If the company must pay the agent for doing the work, they ought to find some other means of remunerating him than by putting temptation in his way. We submit therefore that, as in the case of the commissioners report in New York State, that the prohibition of advances should be recommended by the Commission in Canada.

With regard to the question of profits this has been the subject of much discussion, and there are differences of opinion as to whether it would be better that the profits should be distributed annually or quinquennially or at a shorter period, but I think that all the gentlemen who have addressed the Commission have concurred in the view that at any rate this twenty year distribution is an injustice. At all events under the form of policies at the present time, it is not brought home to the majority of policy holders that they will only participate in these profits if they survive the full period of twenty years, and in a great many cases they do not really understand what they are paying for. In that regard I believe the condition of the policy should be printed on its face. Every condition of the contract should appear on the face of the policy. There are a great many conditions printed on policies now in small type. There are very few of us who take the trouble to read our policies from beginning to end, and there are very few of us who can understand the legal phraseology contained in them if we did. We maintain that the policy should be terse, it should be clear, and the average man should be able to understand it, and I do not think, if there was a standardization of policies, that there would be the least difficulty in making a plain contract which an ordinary man could understand. While we are on the question of profits, I should like to say that the feeling of this Association is very strong

that companies should not be allowed to canvas for risks on estimates. We find that the smaller companies who are starting to do business on an altogether different state of affairs than the older companies did, are publicly publishing and canvassing estimated results which are formed on the basis of profitable business such as the old companies could undertake twenty or thirty years ago. We have the actual figures in the evidence brought out showing that in very few instances—I do not think in a single instance—have the profits estimated been realized. It might well be that the profits are satisfactory in some cases, but at any rate no man should be allowed to canvass for business on such a basis. If they must show the advantages of their particular company, then I submit—we as an association submit—that the publication of results, actual results, will serve the same end, and we would urge these views before the Commission.

MR. HELLMUTH: Just one moment on that subject, Mr. Christie. Supposing that the company was obliged to deposit with the Government the basis of these estimates, the calculations showing how they were made up, so that they would meet with the approval of the Government official, whoever he might be—take for instance the young companies which have no results at all; it shows how its funds invested at a given rate can produce that on the mortality tables then in force—I am not now suggesting wild cat speculations, but something sound—would you have the same objection to an estimate of that kind that would receive the Government sanction?

MR. CHRISTIE: Assuming the Government had the fullest information?

MR. HELLMUTH: Yes, I am assuming that, otherwise the young company would have nothing to go on as against the results in the end.

MR. CHRISTIE: It might serve, if there was some restriction on the estimate. As Mr. Hellmuth suggests that these estimates should be approved by a competent official of the Government, there is no doubt if that safeguard were provided there would be less of this dissatisfaction amongst participating policy holders.

JUDGE MacTAVISH: Before they are published that they should be approved of by some responsible officer of the company?

MR. CHRISTIE: Yes.

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MR. ROBINS: Don't you think this is usually the case that these estimates are put forth verbally in canvassing. How would you deal with that?

MR. CHRISTIE: They are put forth verbally in many cases, it is true, but I think if the estimated results were printed on the policy that that would meet that particular objection. It is quite true that agents will make statements when they are canvassing a prospect that they know to be utterly untrue and utterly incapable of fulfilment, but I think the companies should safeguard themselves in that regard. I do not think it would be possible for the company to make the agent responsible for what he says when he is canvassing, but they could provisionally protect the policy holder by printing these estimates on the policy. On this subject of profits again, it does not seem to us that the companies themselves have arrived at a proper basis of calculation. If you take the evidence of the actuary who appeared for the North American Life you will find that he is not quite sure how these estimates were arrived at. I may be wrong; I stand subject to correction, but it seems to me the companies themselves do not seem to have a proper basis of calculating profits, and I would submit that that is a matter which is deserving of the most serious consideration from the actuaries with whom these Commissioners are consulting. I also submit that whether the distribution of profits should be in the opinion of your Honours quinquennial or annual or bi-annual, that at any rate there should be a statement of profit and loss made up every year, and that that statement, together with a complete copy of the information that they have given to the insurance department, should be published in the newspapers located probably at the head office of the company, and at all the general agencies. At any rate we know, and your Honours know, that this bluebook which is published by the Insurance Department does not reach the insuring public, and policy holders are not aware of the exact standing of the company, unless they obtain the information from the statements which the companies choose to send out. These, in some cases are satisfactory and in some cases are not. At any rate they are very dense, and do not give the policy

holders a true idea or conception of how the company stands, and I think your Honours should recommend that the reports published in the bluebook should also be published in such manner as will reach the policy holder in each case. Mr. Robins has already referred to the non-forfeiture clause of the policy. I trust your Honours will see your way to recommend that the policy holders should by legislation have what many of the larger companies have elected to give the policy holders as a matter of right; but your Honours will observe that in many of these policies, where a policy holder has a non-forfeiture clause in his policy, that clause only becomes operative when he has made an election, that he must within a certain time make an election, and if he does not make that election his policy lapses, and whatever is standing at the credit of that policy goes into the coffers of the insurance company. There is no doubt whatever that a man should have by law what he would be entitled to have for the mere seeking and asking. There is many a man not in a position at the time to send notice of his election, and the mere fact that he was insured, and when a man gets the very best evidence that he has ceased to be as anxious about his policy as he was at the date when he was insured, and when a man gets so careless of his affairs it is well that the law should provide that those who are dependent upon him should have the benefit of what that man has actually paid. On this question of investment I may say that this has been a subject of very serious consideration by us on various occasions, and we have had differences of opinion, and you will no doubt realize what Mr. Robins has already said, and I am pleased that Mr. Robins, in voicing his views along these lines, has made it clear that he is voicing his own opinion. He is a man accustomed to dealing with large amounts of money, and he is voicing his opinions from the standpoint of a man who can afford to take some risks in the question of investment. We have a large number of companies in Canada to-day, and a great many of them have not the enormous amount of assets that the Sun Life and the Canada Life have at their command, instancing two of the larger Canadian companies. We would not say for a moment that the

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powers of investment should be restricted. There seems to be no doubt that, so far as the present powers of investment are concerned, there is nothing vitally injurious to the policy holders' interests, but, to draw a line between what Mr. Roblin has suggested and what this Association would recommend, we would say that the company should be absolutely prohibited from buying stock of any description in a way that would place them in the category of partners of a concern. When an investment loses its feature as an investment, the companies would lose their identity as creditors of the concern in which they are investing their money, and become partners in that concern, and as such liable for the debts of that concern. We are utterly opposed to that. The abuses of such a practice have been clearly exemplified in New York. Companies have secured control of other concerns, and through instruments placed at their command they have been the means of incurring a good deal of the abuses that have been proven to exist in insurance, and we will respectfully urge in your memorial which will be placed in your hands, that while you may in your discretion see fit to increase the present powers of investment, you should at least make it clear that companies are not entitled to enter into the buying and selling of stocks. We believe also that with regard to the question of investments there is a great need for improvement. At page 49 Mr. Commissioner Langmuir suggested a means of checking these investments month by month. That appears to the members of our board to be a feasible and exceedingly desirable thing. And we believe that if the companies are to have any further powers of investment than they have at present there should be greater publicity. We believe that there should be a report sent to the Superintendent of Insurance, at least once a month, and that with that report the stocks themselves should be placed in his hands. It is true that that will entail a great deal of work, but the cost will be infinitesimal and the protection will be absolute, and we have all along been led to believe—and the companies have always made it a very strong feature—that this reserve was actually money in the hands of the Government. They have canvassed that openly, and we find that the

reserve and these securities are only subject to the inspection of the Superintendent of Insurance, and if you will turn to the notes of his evidence you will find that even his inspection is most superficial. He, of course, maintains that under the existing statutes he has not the power to enforce all he would like to enforce. Well, if he has not the power we submit that it is the Commissioners' duty to give him power to conduct just such an inquiry as your Honours are conducting. He is the representative of the policy holders. He is an official appointed by the Government, which is elected by the people, and he should have the fullest power to go into the companies' offices and demand all he wants. He says at page 37 that he has no power to insist on having a valuation of real estate. He says he has asked for that and it has been refused in some cases and granted in others, but that he has had to go and get independent reports at the expense of the department. He further says that he has no power to demand anything beyond what is in the printed Government returns attached to the schedule. Now, if the forms that may be adopted by the Government in connection with any insurance Act are not adequate and do not give him all the information he might find it in special cases desirable to obtain, we, as an association, submit that he should have the power to demand all the information he wants. The Superintendent has said at page 25 that he is largely dependent upon the report made by each company as to his knowledge of the financial standing of the company. He is dependent upon the company's report. Now the company's reports are subject only to audit by a nominee of their own, and we would submit that it would be a safeguard to the companies themselves—and it would certainly be a safeguard to the general insuring public—that there should be public auditors appointed by the Insurance Department, and that the Superintendent of Insurance should appoint these auditors from time to time. He should see that no auditor audits the books of one company too often, that the companies do not know until the time of their appointment who the auditor will be. By such a means we could hone, and only by that means, to obtain a proper audit of the companies' books. Under the

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present system there is no protection for the company or for the policy holder against a falsification of the books. We submit that is a subject deserving of very great attention. With regard to the question of the mutualization of companies, that is also a matter which causes a difference of opinion. It is true that there have been grave abuses in mutual companies, that companies have been exploited by individuals for their own benefit. At any rate if your Honours do not see fit to recommend the absolute mutualization of insurance companies today, we submit that your Honours should recommend that their capital shall not be increased, the capital of any company shall not be increased without the consent of the majority in number of the policy holders in that company. We have a case in Canada where, without any apparent reason, the capital of the company was increased from \$100,000 to \$1,000,000. The president of that company has gone into the books and endeavoured to justify that increase, but I do not think any real justification has been shown. The company had millions of money at its command. Even a million dollars was an infinitesimal part of the company's assets and so far it has only served to take a large amount of money out of the policy holders' pockets which would otherwise have remained there. On that point I would also submit that a reasonable return should be allowed the shareholders for their investment. They have rights as well as the policy holders, but it is a curious thing that companies have been paying very small amounts in dividends to policy holders. They have been paying six per cent. and seven and eight per cent. to shareholders. It seems an inequitable kind of an arrangement, because they are treating with the coin of the realm, and the policy holders' money ought to be just as good as the shareholders, surely. That has been the cause of extreme dissatisfaction among policy holders, and we submit that while the shareholders have placed that money at the disposal of the company in its infancy, they are only entitled to a reasonable return for that investment, just as any man would desire a reasonable return for any investment which would be absolutely safe.

MR. KENT: You are not losing sight of the fact, I suppose, that for

a considerable period in the beginning of each company's career the shareholder gets nothing at all?

MR. CHRISTIE: We are not losing sight of that fact, and we fully recognize that he is entitled to such a rate of interest as would compensate him for placing his money there. There is no doubt he is entitled to that, and the policy holders will reap the benefit of it, or should under careful management. The insurance underwriters have laid a memorial before your Honours, and they urge that the recommendations of the Armstrong commission, insofar as concerns the loading of premiums, should not be entertained by your Honours. I am not an expert in insurance, but it seems to me that common sense would teach us that if a loading is not adequate to cover the expenses that the companies must be going behind. If they load the premium a certain amount for expenses, they have to keep within that amount, and it seems to me that that recommendation of the Armstrong commission should be endorsed by your Honours and that the expenses of insurance companies should be limited in that manner. In dealing with the agents' memorial they have urged that the commission which is paid to them under their present contract should not be reduced. They state that, taken on a capitalized basis, I think, of the total amount of premiums a man will pay under the policy contract, that the remuneration does not exceed two per cent., but they do not say how they come to figure out that that is a fair basis upon which to calculate their commission. It seems to me an anomaly that a company should pay almost the whole first year's premium, and then again contract to pay as much as seven and a half per cent. on the renewal premium. Some of the companies indeed have offered as much as ninety per cent., probably not Canadian companies, but nevertheless insurance companies doing business in Canada, and a much larger renewal commission.

MR. KENT: Could you give us the name of any company which to your knowledge offers or pays those premiums?

MR. CHRISTIE: The State Life of Illinois is one. That is the instance I have in mind. When a company can go to that limit there should be a restriction, and it is very signifi-

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cant that one company in Canada has gone the length of reducing their rates five per cent. to meet this competition. It may be the State Life of Indiana that I refer to. I stand to be corrected on that point. The matter came to my knowledge through an agent and I was not paying particular attention to the companies he named. I asked him to state the company, as I was anxious to know as to his bona fides.

MR. KENT: I put the question because all the managers we have examined disclaim the practice of paying more than fifty per cent.

MR. CHRISTIE: There is no doubt that while it may not be within the knowledge of most people, insurance companies have offered insurance for nothing for the first year, that it is a common practice, in Montreal at any rate, to offer eighty-five per cent., and there are men who have had insurance for three or four years for ten thousand dollars for fifteen per cent. of what the premiums ought to have been, by changing their policies year by year. Of course that would work to their own detriment in the end, but they do not realize that at the time, and it has affected the policy holder who is persistent.

MR. KENT: He allows his policy to lapse yearly and changes his company?

MR. CHRISTIE: Yes. I ask to draw your Honours' attention to the fact that one company has recognized this evil and has probably recognized the fact that insurance companies are charging five per cent. too much inasmuch as they have reduced their rates five per cent. I refer to one Canadian company, the Great West Life, whose rates are lower than those of the other companies, and their rates work out at 19, instead of a 20 pay life, it is really a 19 pay life on the basis of the other companies. It is all very well for the managers to come forward and say they only pay five per cent. of a commission but nevertheless they have to answer that, because that rate has simply been fixed on the basis of meeting this rebate. It is quite true while we are on the subject of the managers' association, that they are very anxious to stop rebating, or profess to be. Your Honours will find their ordinary rates in their rate books. But while on this subject of

the insurance managers' association and the question of rebates, I would submit that if they are the body they profess to be, they have a remedy in their own hands. There was an insurance rebating act in force in Ontario, and it would be well to know at whose instance that rebate law was repealed. It certainly was not at the instance of the policy holders. I think that so far as I know the insurance managers' association is a body which could exercise a great control over the question of insurance in Canada, but it seems to me it would be better to obtain the desired ends, if it was an association composed of the companies, but whatever the managers may go and decide or elect, or decide by resolution to do, it is not obligatory on the boards of their respective companies to endorse it, and it does not necessarily imply that because they wish this, that or the other thing that that will be endorsed by the companies, and I would submit that if your Honours are going to recommend the powers these life managers' associations desire, that your Honours should suggest that this association should be composed of the companies, who would elect a representative whose action would be binding on the company. At the same time I do not think that is a matter which should concern the Commission. I think the Commission have quite as much as they are able to do to attend to the general subject of insurance without going into details of management like that. It is a thing to be desired, but I think the companies should be allowed to work out their own salvation, as also should the agent.

MR. KENT: Would it not mean to work out their own destruction rather, because that is where they are going?

MR. CHRISTIE: Probably it would do that.

MR. KENT: They all acknowledge they are going from bad to worse in that respect.

MR. CHRISTIE: They do, and they have themselves to blame, because I do not know that the insurance managers themselves have been very strict in the observance of the regulations they have sent forth. There is one point your Honours that is deserving of very serious consideration. It always has had the most serious consideration of the boards of

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the companies and insurance managers' associations themselves, and that is the remuneration of the medical examiners. It is strictly provided in the terms of the resolution set forth in the insurance managers' proceedings that the remuneration shall be such and such, but we find in certain instances that companies, notwithstanding that resolution, have paid large remuneration to medical examiners and so diverted risks from one company to another. There should be some provision in the law as to the medical examinations, because the doctors rather exercise considerable influence, in the rural districts at any rate, and there should be a uniform fee set forth in the Act, and it should be provided that any doctor who accepts a larger fee should be subject to some such punishment as your Honours might see fit to recommend.

JUDGE MAC TAVISH: You think he should get the fee irrespective of whether he passed a favourable opinion on the applicant or not?

MR. CHRISTIE: Undoubtedly, whether it should be favourable or otherwise. There is one other feature that has been brought out very strongly in this investigation. Various abuses have been shown to exist. It is a subject for consideration at the conclusion of this enquiry, as to whether proceedings should be instituted at the instance of the policy holders for restitution, but at any rate I submit it is deserving of the most serious consideration of this board, as to what steps should be taken and what means should be taken to secure the opinions of the policy holders of the companies in which directors who have been guilty of breaches of trust, for that is really what it amounts to—as to whether they should be continued in the management of these companies. We find managers of insurance companies have secured large contracts which, as a matter of fact, render it almost impossible to put them out of their positions. It is desirable that there should be continuity of management in insurance companies, but it is not a desirable thing that a man should have a contract which he can wield over the policy holders or shareholders, whatever his conduct in the matter may be. We have in a majority of cases executive officers who are in complete control of the insurance matters. If they have not complete

control they have such contracts as give them an interest in perpetuity almost in whatever business the company may write. I submit such a contract should be made illegal. Such a contract is not brought home to the knowledge of the policy holder when he is insuring. He is not aware that he must remain subservient to the management of the gentleman who is in charge at that date and for all time. He is told he has a vote. If he had a vote it would be utterly valueless insofar as that particular exercise of his own right is concerned, and I think that such contracts as give to a man one per cent. of the business written in all time, or give to a man in perpetuity certain commissions, should be discounted by law and should be provided for in your recommendations. With regard to the question of returns, there is just one point I wish to mention, and I will submit that in all cases of returns the officers responsible, or the officers who have subscribed their signature to that document, should be responsible for everything that is contained in it. That document should show the complete state of the companies affairs. It should show all their dealings, and if they are allowed to accept bonus stock in the future that they should at least disclose the fact and that such things as silent assets should be unknown.

In concluding, I should just like to voice the opinion of the Association in regard to the whole question insofar as the subject of future legislation is concerned by saying that we, as policy holders, are very much indebted to the gentlemen who have been conducting this enquiry, both Mr. Shepley and his associates, Mr. Hellmuth and his associate, and your Honours, for the non-partizan way in which it has been conducted. We trust that when your recommendation is made that it will be considered by the Dominion Parliament, that the members will subserve their prejudices, either on one side or the other, and consider the whole report with a reasonable mind, and apart altogether from the question of whether it may be introduced by the one side or the other, or whether an amendment may be introduced by one side or the other, because the subject is a large one, and it can only be elucidated by a proper discussion and honest judgment.

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MR. HELLMUTH: I understand the gentlemen who have addressed your Honours, the vice president and the secretary of the Association, will prepare and forward a memorial in as short a time as possible. By next Tuesday they will have a written memorial in which, insofar as it deals with any subject, will be the opinion of the Association, but, of course, as your Honours can easily understand, it was impossible to have without consultation anything more than the opinion of two important members of the Association, the vice president and the secretary. Although, as they stated, their opinions as given cannot bind the Association as a whole and are their individual opinions, except that in some respects I think Mr. Christie did say that the Association felt that way. In regard to that I have no doubt the Association were unanimous as far as that goes.

JUDGE MAC TAVISH: We are very glad to have the opinions that have been given, even if they are the individual opinions of Mr. Christie and Mr. Robins.

MR. HELLMUTH: I have no doubt it is very desirable as showing that men may honestly differ in regard to these matters.

MR. TILLEY: Then, subject to getting from Mr. Christie an official memorial later on, which may be handed in and read, and which I am sure your Honours will be glad to receive, that, I think, closes what the Policy Holders' Association desire to say to your Honours, and the next work to be done is to continue the hearing of the Life Officers' Association, which your Honours fixed for 4.15 p.m. That leaves some ten minutes of a recess.

The Commission then adjourned for ten minutes.

(At 4.15 p.m. the Commission resumed the discussion with the Life Managers' Association.)

MR. SHEPLEY: Mr. Chairman, in the discussion of the memorial from the Managers' Association, we had completed for the moment, I do not mean finally at all, the examination of the third paragraph, on the subject of investments. I understand that some further observations are desired to be made on the subject of that clause before we proceed further, and, of course, we are anxious to hear all there is to be said.

MR. BRADSHAW: I would like to say a few words on that subject, Mr. President. There are two ways of dealing with the investment powers of life insurance companies. First, the system which provides for absolute freedom of choice of securities, throwing the whole responsibility on the directors. That may be termed the British system.

Then there is the other system, namely, that of restriction, somewhat analogous to that recommended by this Association. While the British system of absolute freedom has worked well in Great Britain and the other colonies, this Association does not recommend it for this country. We do not think this country has reached the status which Great Britain has, so as to permit the life insurance companies that absolute freedom in the investment of the funds that prevails in Great Britain. It is the opinion of the Association that the best interests of the business will be conserved by the placing of certain reasonable restrictions on the investment powers; such restrictions, however, as will not hamper the wise and remunerative investment of the funds, but which will at the same time prevent them from being invested in untried and speculative securities. The Association has suggested what it believes would be desirable restrictions on debentures and stocks, leaving the choice in the first grade of securities, namely, bonds secured by mortgage on real estate and other assets, to be left to the judgment of directors who usually are men of good financial discretion.

Dealing with the broadness of the powers contained in the memorial, I would like to point out that it must not be overlooked that several of our companies, transacting business in this country, also transact business in such countries as the United States, Mexico, the West Indies, China, Japan, France, Germany and Great Britain. This is one of the reasons why it is recommended that the investments shall not be territorially prescribed. There is another reason, and that is that at present the privilege is accorded to the United States and British companies operating here of freedom in regard to territory. It is submitted that Canadian offices should not be placed at a disadvantage when compared with British and foreign com-

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panies operating in Canada. For example, British or United States offices can, if they so desire, invest every dollar of their Canadian premiums in British or United States securities. Then there is another reason, and that is that British and foreign companies operating in Canada can place with trustees for the reserves on their Canadian business, approved securities of any country. For example, if the Canadian policy reserves of a United States company amount to two or three million dollars, that company could place in the hands of trustees here the whole of that amount in the securities of the United States. This, of course, places the Canadian companies at a very decided disadvantage. Then there is a third reason, and that reason was mentioned last evening; that the field for high grade bonds of public utilities is comparatively narrow in Canada, on account of our few important cities. It is not intended to be unpatriotic, but this is not a matter of sentiment; it is one of vital financial interest to policy holders, and I think it will be immediately recognized by large investors, whether they be private investors or investors on behalf of their own companies, that other than Canadian fields must be cultivated where large funds are placed at their disposal for investment.

The Association is of the opinion that the policy holders are more deeply concerned with the absolute merit and intrinsic worth of securities than as to whether a security is based upon valuable property in Great Britain, the United States or some other country; and consequently it is suggested that companies be permitted to invest in securities in such countries as may, in the opinion of the directors, offer the safest and most remunerative investments.

Mortgage investments were referred to last evening and it was suggested that the life officers' investments should be practically confined, I think, to mortgage investments. This class of security will always be the chief class of investment of a life office. At the present time no less than about 24 to 25 millions of dollars, or 26 per cent. of the total assets of Canadian life offices, are so invested. Experience, however, has abundantly proved in Great Britain, the United States and Canada, that the best general results will follow

from a wise distribution of the classes of security. If all, or nearly all, of our life companies' investments had been made in mortgages in the period of say from 1897 to 1900, it is believed that very serious consequences would have followed. Take, for example, the history of the Ontario loan companies in that period. It will be found that out of an investment of some 85 to 100 millions of dollars invested in mortgages, no less than between 5 and 6 millions of dollars of mortgages were under foreclosure, representing from 5 to 6 per cent. of the total amount invested in mortgages. Happily conditions have improved, but it is a well known fact that the losses incurred through the conditions mentioned were very disastrous to the loan companies and were the means of forcing some of them to retire from business. It is also only necessary to mention the experience of the Australian companies in Australia and of the British companies which invested in Australian mortgages. Reading the reports of the British offices some few years ago, one is struck by the large amount of money which had to be written off in connection with these mortgage transactions. Not merely hundreds of thousands of dollars, but hundreds of thousands of pounds. Take again mortgages in our own Western country; that is regarded as an ideal field for investment, but surely no one is so optimistic as not to believe that it will have its set backs as a field for such investments. As previously stated, while it is believed that real estate mortgages will always form the important class of life office investments, it will be far from prudent for a life office to invest all, or nearly all, of its funds in such securities.

Then there is just one suggestion I would like to make, and I make this, not on behalf of the Association, but in my personal capacity. If it is thought desirable to give greater publicity to the securities of life insurance companies there might be made a return by the life offices, say once each six months, apart altogether from the annual statement at the end of the year, say, for example, the end of March and the end of September, a statement setting forth the purchases and sales of all bonds and stocks in the previous six months; also reporting in some convenient form, the changes which have taken

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place in securities such as call loans, mortgages, loans on policies, and other investments during the same period. This statement might be asked for from the companies and published by the Government in its own convenient form. It might be published in the same form that the list of licensed companies operating in Canada is now published by the Government, or in some official publication. By that means there would be three periods in the year to scrutinize the investments of life offices; once at the end of the year where they would be all brought together; once in March, showing the changes which had taken place; again in September, showing the changes which had taken place in the securities, between the months of March and September. It is believed that such a scheme as this would be more effectual in securing a wise and prudent safe investment of life funds than ironclad restrictions, which, while they might commend themselves to your honourable body today, I venture to suggest that in a very short time would be regarded by yourselves as quite unsuitable and obsolete.

MR. T. B. MACAULAY: Might I add to what Mr. Bradshaw has said one word of explanation; that is, that the suggestion he has just made is one which was discussed at great length at the meeting of the Managers present this morning, and we were all unanimously of the opinion that if the Commission thought it would be of any advantage at all, we wished it to be understood that the Managers were in favour of the fullest degree of publicity that the Commission could possibly think was advisable. The only obstacle, the only objection, that any of us saw to this suggestion which Mr. Bradshaw has set forth, was the bulkiness of the returns. Apart from that—and the question of cost, which, however, if the Government bore it, would not trouble us—we saw no objection to it at all, and we wish it to be understood that, so far as the life companies are concerned, they will not object to any measure of publicity that your Honours may think desirable.

Following up a little along the line of investment powers, and speaking now for myself alone. I would not object if there were not one solitary

change made in the existing Act with regard to the investing powers, except one. In other words, I would be absolutely satisfied, and the Sun Life Insurance Company would be absolutely satisfied, if the investment powers already contained in the Act were left without the change of a single syllable, with the one solitary exception of the removal of the restriction by which the total proceeds of our Canadian business must be invested in Canadian securities. So far as wanting wider powers is concerned, we, as a company, do not care two straws whether they are given or not; we are satisfied, but do not understand from that, your Honours, that we are not in hearty sympathy with what the Association is recommending. We are endorsing it and pleading for it, and I think it is desirable; I mention this fact to do away, if possible, with the idea that the life offices or the life companies are asking for wider powers. I do not believe any of us would feel very strongly if there were no change, if we had this wider power in regard to going outside of the territory. It is true that we have suggested a change in the style of those powers, but that change is really restrictive in its nature, rather than extending the powers. It is suggesting what we consider—what the Sun Life consider, and what I consider as well as all of us—to be an improvement in the basis of the fixing of these powers, and one that is better in every way. It is not because we want wider powers in that respect, but because we think that this basis which we suggest is a better basis, and in reality it is a more restrictive basis, apart from the one thing of going outside of Canada. As Mr. Bradshaw has already pointed out, the removal of that restriction to Canadian securities is desirable from the two standpoints; first of all of safety, because we want to get safer investments than we can get in the small cities of Canada; and secondly, from the standpoint of justice as between companies, because it is not just that American and British companies shall be allowed to come into Canada and do business here and take the proceeds of their Canadian business, of their Canadian premiums, and invest it in the United States and then to say to the Canadian companies, you shall not do what these foreign companies are allowed to do.

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MR. SHEPLEY: May I interpose a question? Has it been discussed by your association from this standpoint, that possibly widening the field of investment would make Government inspection in respect to your investments rather illusory?

MR. MACAULAY: It has not been discussed and I do not think a member of the Association thinks there would be a particle of foundation for that fear. Personally, I do not think so at all.

MR. SHEPLEY: You do not think the work of inspecting securities is at all dependent upon where the money is invested.

MR. MACAULAY: No, I think it is quite as easy to ascertain the value of securities in large American cities as it is in small Canadian cities. The expansion of the field will make for safety and it will not make supervision a bit more difficult. Not one particle.

MR. SHEPLEY: Canadian Government offices would probably have a good general idea of what is going on in their own country, while they might not have any idea at all of what is going on in Mexico.

MR. MACAULAY: So far as I am aware no Canadian company has ever invested anything in Mexico except in connection with a Canadian charter, officered by Canadians and where more is known in Canada about it than in Mexico.

MR. SHEPLEY: But you are suggesting taking off that restriction?

MR. MACAULAY: Yes.

MR. SHEPLEY: I am looking to that just to see whether or not you are likely to make Government inspection less efficient if you remove the area of your operations to a greater distance.

MR. MACAULAY: I am perfectly convinced that there is not the slightest ground for such a fear, Mr. Shepley. At any rate this cannot be denied, that we want our life companies to be able to get the best investments, no matter where they are, and we do not think the best interests of the life insurance companies and policy holders should be sacrificed for the convenience of Government supervision. We want the best and safest, and Government convenience in the inspecting must adjust itself to the best interests of the companies and the policy holders, not the policy holders suffer for the convenience of officials.

I would like to emphasize a second point. Life insurance funds are sometimes spoken of as trust funds. Now, that is apt to be misunderstood. If we speak of life insurance funds as being trust funds in the sense that is ordinarily attached to that phrase, it is not so. Life insurance funds are funds intrusted to the companies by the policy holders, not for the purpose of investing them as if they were trust funds in a legal sense, but to invest them in a prudent manner, keeping in view two points; first, safety—safety is, of course, the first consideration—and second, profit. A body of directors who sacrifice either of those considerations is neglectful of its duty. We all admit that safety is the first, but we must also admit that it is the duty of the directors to invest their funds in securities that will give a good profit to their policy holders as well as be safe. If directors were to put their funds into high grade securities on which it was impossible to make a loss—although, as I said yesterday, it is just on those high grade securities that the greatest losses are likely to be made, on account of the depreciation in their value, through the rise in interest—or even if it were possible to put the money into securities yielding 3 or 3½ or even 4 per cent., and no higher interest, even with absolute security, the policy holders would be the first people to turn on us. A company that would do that would be neglected.

MR. SHEPLEY: Perhaps that is because you have educated them to expect that you will give them speculative profits.

MR. MACAULAY: Mr. Shepley, it is because the public has learnt to know that the business as carried on by the life insurance companies of Great Britain, the United States and Canada is being done the way they want it done. We are not asking any greater powers, but we are just asking that we shall not be restricted. If restrictions were put on those powers so that we could not make as good profits as are at present being made, the policy holders are the very people who would first of all neglect our companies and turn from them and they would not be able to do business. I wish to emphasize the fact that no evils of any consequence in connection with life insurance investments from the standpoint of

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security have developed anywhere, considering the magnitude of the business. The policy holders are satisfied with the quality of the investments as the companies at present have them in the United States, England and Canada, and any restriction upon them is not demanded by the great body of policy holders, and would be resented by them because they could not be made without reducing their profits, and as they themselves would say, "The profits and the security of the policy holders in the past show that the companies have acted wisely and we will sooner trust to a board of directors who have in the past shown that they will conduct this business properly, rather than to put restrictions upon them which will greatly increase the cost of our insurance."

JUDGE MAC TAVISH: Are you expressing the views of the Association now, Mr. Macaulay, or your own?

MR. MACAULAY: I am elaborating a little on it, but I believe the Association would entirely agree with me.

JUDGE MAC TAVISH: You have stated your view of the nature of insurance funds.

MR. MACAULAY: I think so—I say yes, positively, because that question was discussed this morning and we all agreed on that point, that in the sense of being trust funds in the narrow sense, they are not. We are one on that point; are perfectly clear about it, and we think that the public mind may possibly be deceived and confused by wrong use of that term.

MR. KENT: I would like to be sure on that point, that all the Managers here present consider that insurance funds are not trust funds.

MR. MACAULAY: In the narrow sense of the phrase. I would like to attempt a definition and to have the question discussed whether it is correct or not; that life insurance funds are not trust funds in the narrow sense of the phrase, but are funds intrusted to the companies for the purpose of investment, just in the same way practically as the companies have always done, keeping security in view and also looking strongly to the question of profits.

MR. LANGMUIR: Let us understand about this making profits.

MR. MACAULAY: Would your Honour mind finding out, first of all, whether my view is correct?

JUDGE MAC TAVISH: We will take silence as consent.

MR. SHEPLEY: We might ask for a show of hands.

MR. MACAULAY: If any manager has any objection to the view I have stated, now is the time to speak.

MR. RICHTER: Your Honour, I was asked that question in the witness box, whether I considered life insurance funds as trust funds. I expressed the opinion that I did. Mr. Macaulay has qualified that. He says, in the narrow sense. Well, of course, there is a difference.

MR. MACAULAY: I would like to ask Mr. Richter whether he has any objection or differs from my definition, that they are really intrusted to the companies to invest safely and profitably, just exactly as the companies have, as a rule, been doing in the past.

MR. RICHTER: There is nothing inconsistent in that, and with their being trust funds all the same.

MR. MACAULAY: That is right and satisfactory to me.

MR. SHEPLEY: They are trust funds in the sense of being other people's money.

MR. MACAULAY: No, sir; they belong to the companies; they do not belong to the policy holders, any more than the assets of banks belong to the depositors.

JUDGE MAC TAVISH: Again, may I ask, if you are now expressing your own views or those of the Association?

MR. MACDOUGALD: If Mr. Macaulay is expressing his own views I have nothing to say.

MR. KENT: The Commission should know when a member is speaking, whether he is giving his own views or those of the Association. It is a startling declaration that we have just heard.

MR. MACAULAY: I do not think you will find many managers to differ from it.

MR. LANGMUIR: I certainly was of the opinion that insurance funds were pre-eminently trust funds, whether in the narrow sense or not.

MR. MACAULAY: Your Honour, if they were to be considered trust funds in the narrow sense, then all life insurance business is wrong.

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MR. LANGMUIR: No, I am coming to that point and I wish to ask you a question upon what you have said.

MR. MACAULAY: My position is that they are exactly on the same footing as deposits in banks. And, so far as that goes, the Legislatures of the United States have put restrictions upon the investments which savings banks can make, but none of them have put restrictions on the investments which life insurance companies can make, showing that they look upon the deposits in savings banks as more in the nature of trust funds than those of life insurance companies.

MR. SHEPLEY: The banks must pay a fixed rate of interest on the funds of the depositors, and the bank may make what it is able to do over and above that. You are trading in the one case with your own funds, that is funds you have borrowed and upon which you pay a fixed rate of interest, and in the other you are trading with funds in which your policy holders have a direct interest.

MR. MACAULAY: There is no difference except in the sense that we give a share of profits, which eliminates the trust feature to that extent..

MR. LANGMUIR: Mr. Macaulay, you say that monies are placed in the hands of the insurance companies for safe investment, that is the first consideration?

MR. MACAULAY: Yes.

MR. LANGMUIR: And for profit?

MR. MACAULAY: Yes.

MR. LANGMUIR: Now, are you surprised to learn that in strict compliance with the Trustee Investment Act of the Province of Ontario the Toronto General Trusts Corporation received an average rate of 4.82½ last year; as against 4.86 with your larger scope that you have altogether beyond the Trustee Investment Act. Will you tell me why it is, that with the greater scope you have in investments now—apart altogether from the greater scope you are asking—you have not received a higher rate of interest? Why has not the return been more favourable? I am quoting from Mr. Bradshaw's book; "The average rate of interest realized since 1890 by Canadian, Australian, United States and British companies" is as tabulated, and in 1904 the average is

4.80 for Canadian companies. It is not given for Australian companies in that year, but the last return is 1902, 4.55; in the United States companies it is given for 1904, and it is 4.63; in the British companies it is not given since 1902, but in that year it was 3.67. Now, Britain has free trade in insurance investments, and what is the result? The result is that the average rate for their investments has been 3.67 as against 4.80 in Canada. I would like you to explain that.

MR. MACAULAY: The explanation is the difference between English rates—

MR. LANGMUIR: Oh, I know, but they have the whole world.

MR. MACAULAY: The difference between the English rate and the Canadian rate, I think, is very easily explained. In the first place, to the extent that they have invested in English securities they cannot get the rates prevailing in Canada.

MR. LANGMUIR: But they are not confined to England.

MR. MACAULAY: Your Honour, I must take these points up one by one. To the extent that they invest in Great Britain they cannot be expected to get and they do not get, the Canadian rates. The great bulk of the investments of the English companies are in England, in Great Britain, naturally so, because they take the bonds of their own cities, the mortgages upon their properties, as is very natural and proper, but on their investments that they make in the Old Country they naturally only get the English rate. That is easily seen. The next point is that it is only comparatively a small part of their funds that is invested abroad. They have the right to do it, but they do not use that right to the fullest extent. And when they make investments abroad they do not get the full rate. They come to Montreal and make loans at 4½ per cent. and I have heard of them making them at 4 per cent., both in Montreal and Toronto. A company coming across here cannot get the rates the local companies do and cannot expect it. If they take securities listed in the old land, these are the cream of things and yield very low rates of interest. A British company cannot expect in the United States or Canada to get as good rates as a Canadian or American company can

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get. So that, as it does not get the American rates on its English investments and does not get even the American rates on the investments it makes in America the difference is accounted for at once. In the next place the fact that the Canadian companies made more than the American and Australian companies is, I think, sufficient to show that the Canadian companies have made the best of their opportunities.

MR. LANGMUIR: I think so, too. I agree with you there.

MR. MACAULAY: The second point as to the Toronto General Trusts Corporation being able to get a very high rate; I confess to surprise that they have been able to get such rates within the Trustee Act.

MR. LANGMUIR: It is the average rate, 4.82½.

MR. MACAULAY: I confess to surprise, but I think that that suggests that North West mortgages have something to do with it.

MR. LANGMUIR: Certainly. Several millions of Manitoba mortgages. But you have the right to take Manitoba mortgages, there is nothing better in the world.

MR. MACAULAY: That is all right, but, if you will excuse me for saying so, I think that eliminates the Toronto General Trusts Corporation altogether, because we are not discussing mortgages at present.

MR. LANGMUIR: That includes also a good deal of municipal debentures.

MR. MACAULAY: I venture to say that in municipal debentures the Toronto General Trusts did not make 4.82 per cent.

MR. LANGMUIR: I did not say that. Do not misunderstand me. I said the average rate of interest. Averaging Manitoba interests, the interest in the Province of Ontario, the debentures and all, the average has been 4.82½, and that is strictly within the Act.

MR. MACAULAY: My answer is that the Toronto General Trusts Corporation has done remarkably well and deserves a compliment.

MR. LANGMUIR: Pardon me for introducing the name of the Toronto General Trusts Company. I had no right to introduce it at all, but it is from my full knowledge of the results of keeping strictly within the Investment Act of Ontario.

MR. MACAULAY: As I say, that is very creditable to the Trusts Corporation, but I wish to emphasize the fact that it has no bearing upon what we are discussing; we are not discussing mortgages, we are discussing bonds and stocks and the fact that they get that has no bearing.

MR. LANGMUIR: Do you know what the Investment Act of Ontario permits?

MR. MACAULAY: Mortgages.

MR. LANGMUIR: It permits mortgages on real estate, that is one; it permits every kind of municipal debenture, school debenture, Government securities in Canada, the Provinces and Britain. It is not confined to mortgages alone.

MR. MACAULAY: Mr. Bradshaw asks whether that rate is less expenses.

MR. LANGMUIR: No, that is the rate received.

MR. BRADSHAW: The companies make up their rates differently. It is hard to determine from that Report whether that rate is based upon the earnings.

MR. LANGMUIR: This is the average gross rate, which, of course, is the only way. When you speak of the average rate of interest received, it is the average gross rate.

MR. MACAULAY: The point I wish to make is that if we were limited just to the securities Mr. Langmuir has stated as being open to the Trust Corporation of Ontario, mortgages and these municipal and other similar securities, that would practically eliminate all the securities in which the vast bulk of the funds of the life insurance companies of this continent are invested.

MR. LANGMUIR: But you are not limited to that; you have a broad field to work on in the existing Act. You are not limited at all to that and it is no use putting it in that way.

MR. MACAULAY: We are not limited, but my point is this, leaving mortgages out of the question, because that is not what we are discussing now, if we were limited to such things as municipal and other debentures, in accordance with the Trustee Act, that would eliminate everything that is in the Act at present and decrease the rate of interest, unless we were all prepared to follow Mr. Langmuir and put all our money practically into North West mortgages.

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MR. LANGMUIR: What I think is this; pardon me for speaking of it—that if this Commission goes to the Government and makes a recommendation for some enlargement in the securities, I presume that the Government will immediately say, “What securities are you permitted to invest in for trust estates? If you are going to enlarge the scope of investments for insurance companies should you not also enlarge it in respect of trust estates as well?” I want to find out some logical way of making an answer to that.

MR. MACAULAY: From our standpoint, we have nothing to do with trust estates.

MR. LANGMUIR: I am assuming that these are trust funds; I know you do not, but I am going to poll the gentlemen before me on that point.

MR. MACAULAY: I would like to read on that point what the Armstrong Commission says, and no person can charge that they are not perfectly unbiassed.

MR. SHEPLEY: They leaned a little the other way, did they not?

MR. MACAULAY: I should say they did; they leaned against the life companies very emphatically. This is what that Commission said: “It is difficult to draw any satisfactory line with reference to investments in negotiable bonds. It would not be advisable to restrict the investments of life insurance companies in the same manner as those of savings banks. This Committee that was so strongly opposed to the life insurance companies, puts itself on record that it would not be advisable to restrict the investments of life insurance companies in the same manner as those of savings banks.” The securities available for investment under such limitations would not be large enough in amount to furnish a sufficient field for the profitable investment of the large accumulations of insurance corporations. It has been feared that such a restriction would prove to be too severe and might operate so far to increase the demand for the favoured securities as to preclude a satisfactory rate of income. After much reflection upon this subject the committee is of opinion that no satisfactory line can be drawn with reference to investment in bonds, other than collateral trust bonds.” And that was for a special reason. “Without hampering the companies in the management

of that reasonable freedom of investment necessary to secure the return upon which the calculations of their risks are based.” Now, so far as bonds go, I think that ought really to settle the matter, because when a Committee like that, with a prejudice against insurance companies, refuses to put on any restrictions, I think we should go very slow.

MR. SHEPLEY: Supposing you are dealing with a Commission that has no such prejudice?

MR. KENT: Don't you consider that we are going slow, Mr. Macaulay?

MR. MACAULAY: I believe you are, gentlemen, and I expect a Report that will be wise and reasonable and that will give Canada the best legislation on insurance matters of any country in the world. That is the kind of Report I am expecting from the Commission. I would like to emphasize, however, the difficulty that your Honours have to face in framing a law that will be reasonably safe and yet not unduly restrict the companies, has greatly increased in recent years. Fifteen or twenty years ago, when the rate of interest was steadily declining, and when consequently the value of bonds was steadily increasing, restrictions limiting the companies to bonds or something of that kind, would not have had injurious effects. Now, however, that we have to face an entirely different situation, when the rate of interest, after falling for generations, begins to rise and has been rising for quite a while and shows every tendency to rise still, we have to face an entirely different situation. We have to recognize the fact that high grade bonds that under the old system, with a falling rate of interest, were the choicest of securities, have become now among the most dangerous, because they are bonds that are likely next year to be one per cent. lower, two per cent. lower the year after, and perhaps three or four the year after that, and so on. Any restriction, therefore, that would confine the companies to these decreasing securities—securities that are decreasing in value and will certainly decrease in value if the rate of interest continues to rise, as we think it will, it is one of the most certain things in the financial world that if the rate of interest continues to rise the value of bonds is bound to fall.

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MR. LANGMUIR: But, Mr. Macaulay, you are always certain to get the face of such a bond; it is so good that it will not go below par, and you will always get your interest. Now, where is the loss? You are buying for investment not for speculation: you are buying to hold for investment for future generations.

MR. MACAULAY: We might say that about British Consols. The companies, however, that invested in British Consols, when they bought at 114 and when they came down in value to 84—will our Superintendent of Insurance let us value them at 114?

MR. LANGMUIR: There might be something done in that way.

MR. MACAULAY: It would be a fictitious value, if he did.

MR. LANGMUIR: As long as the face of a good bond is not impaired, if it represents one hundred cents on the dollar, if you pay that for it, and it is a thoroughly good bond, and as long as the interest is paid, I do not see that you have any case, because you are not buying that bond to speculate with it, you do not want to sell it again, the only thing is writing it down under our system with the insurance companies. Now, that is a matter for consideration.

MR. MACAULAY: The Insurance Department has always followed the practice of requiring the companies to write their bonds down. Furthermore, if our Canadian Department changed from that, the American Department would not, and the result would be that if we invested in these high grade securities we would have to revalue our securities in a few years and we would have to make slashing cuts in the profits to make good the losses caused by the depreciation in the value of the investments, caused by the narrow restrictions put upon us by our law. And who would be responsible for those losses? The law; not the companies. I think I have said enough, and I thank you, gentlemen.

MR. SHEPLEY: Is there anything further that any gentleman wants to offer on the question of investments?

MR. LANGMUIR: I should like to hear one or two more on the subject of investments.

MR. MACDOUGALD: One or two references have been made to the British practice in the matter of investment. It occurs to me that if

I could, without labouring the subject at all, make one or two terse remarks, it might be convenient. I will refer, first of all, to the question of freedom of investment. They have practically absolute freedom, and in most of the companies they have literally unlimited investment powers. There is nothing, for instance, that I can think of in the case of my own company that we have not the legal power to invest in. I am speaking, of course, of outside of Canada and outside the limitations of the Canadian Insurance Act. Now, as to the conception of the business as a trust, I think it is not wholly a trust, but a combination of a trust and a trading concern.

MR. MACAULAY: Hear, hear, that is right.

MR. MACDOUGALD: The funds are rather a trust than the basis of a trading concern, but in harmony with that conception the principle that seems to guide them is that it is not a trust in the sense that it should be subject to limitations of investment such as trust funds are subject to.

MR. MACAULAY: Hear, hear.

MR. MACDOUGALD: But that they may go, or rather as a matter of practice they do go just a little beyond that in the matter of investments so far as the rate of interest produced indicates. Then, in regard to the average rate of interest, which has been mentioned. It is the practice of the British companies in making their returns, almost invariably—there may be one or two individual exceptions, but I think not—it is the practice for them to return the rate of interest net. When I say net I mean more especially net of income tax, which is a very great impost now. That income tax for some time has represented on the average say 2/6d or one-eighth per cent. Allowing for that and bringing this net rate up to a gross rate, we should get from 3.67—I think the figure was—up to say 3.80 per cent., by comparing the two rates of the different countries with a common denominator. Then, some companies, before putting down their rate of interest, write off losses from the interest. That is not infrequently done. I do not say huge losses, such as referred to in the case of the Star £200,000 sterling, but I mean just comparatively small losses. They are not written off in the books in that way, but I mean that in calculating

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the average rate of interest those losses are first deducted from the interest yield as shown in the revenue return. That, of course, has a tendency to slightly depress the rate and means that the average, 3.80, is possibly a trifle high. Then I think it is only fair that I should make a remark in regard to these huge losses that have been mentioned. If I take the case referred to last night, of the Star, I believe I am literally correct when I say that it was done in harmony with the usual practice in such cases. The money is not written off as a loss until the loss is realized; when the actuarial valuation was made and a surplus was determined as a result of that valuation, then a certain amount of funds were detached by a bookkeeping entry from that surplus—in this case we will say £200,000 sterling, a million dollars—and that is put down as an investment fluctuation fund and appears in the accounts in the balance sheet as a liability to that extent. Now, when those securities have risen in value—

MR. MACAULAY: If.

MR. MACDOUGALD: If and when those securities rise in value, that fluctuation fund is no longer required for that particular purpose. I have in mind at the moment, a case of a British company with a fluctuation fund which originated exactly in that way, returning that investment fluctuation fund to the common pool. But I do not say that that fluctuation fund is not necessary. It is considered necessary. It is dealt with generally quinquennially, on the occasion of the actuarial valuation. It is then determined whether it shall be kept intact, whether it is not larger than the necessities of the case require, or whether it should be augmented because of further nominal losses in the convertible securities. In other words, it sounds of course very large to say that the Star or some other company wrote off one million dollars as a bad debt. As a matter of fact it did not write it off, but it provided for not distributing that one million dollars as profit until the event were determined.

MR. LANGMUIR: I am very glad to have that information, Mr. MacDougald, because I was a little astonished at the average, and I can see now that it might be seriously affected by what you have said.

MR. JUNKIN: Your Honours. I will be brief. There are just a few

points I would like to deal with. One is regarding the matter of mortgages, that has been referred to occasionally. A company might have a very large per cent. of its assets in mortgages—for instance, in the West—and show apparently a high rate of interest, and yet the net rate of interest might be considerably less than what appears, as the expense in connection with mortgages is, of course, very much greater than in connection with other investments. There is also this to be observed about mortgages, that if you do have a loss, there is no compensating gain can be made no matter how good the property is that you have a mortgage on; your mortgage is never worth any more than 100 cents on the dollar. Your other securities, bonds and stocks, if one happens to go down, if British Consols happen to go down now, some stock is going up and one balances the other; whereas in mortgages there is no way of getting a balance and whatever your losses are they are absolute losses and there again, your rate of interest is reduced, because in showing the rate of interest you cannot very well, if you have a loss of \$20,000 on a number of mortgages, deduct that from your interest rate, but yet your earning power is that much less. You might, apparently, have a 7 per cent. rate and you really may not have more than 4½.

With regard to confining the companies to the same class of securities as are permitted by the Trust Act, there is this effect, which is a very serious consideration. That is practically the position which many of us were in before the last amendment to the Insurance Act. The result was that the trustees of various kinds, for private funds, and the trust companies and the life insurance companies, were all forced into the same channel, they were all seeking the same kind of investments, and the price of those securities naturally went very high. In our own experience, I remember once we required \$25,000 of the city of Toronto bonds for the purpose of deposit, and there was a new issue coming out and we tendered for them. We were advised by our brokers and by others that if we wanted to be sure of securing \$25,000 it was not wise to tender at a better rate than 3½ per cent. We tendered and secured them. There were some sold of the same issue at

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that time by tender on a basis of $3\frac{1}{8}$. That was largely due to the fact that the life insurance companies at that time were all competing for that class of security, along with the trust companies and other trust funds. If we were confined to that class of security, in a very short time the conditions would be the same. Not only would the rate of interest on municipal debentures rapidly go down, but on mortgages as well. Then, with regard to the ideal investments, I think that it is well for a company to have its assets well distributed among various classes of securities, because the condition, as already pointed out, that will reduce the value of one security very often will enhance the value of some other, and thus you keep a balance in your account; whereas if your funds are all invested in bonds, at the present time, a company would certainly be in a very serious position. And the same conditions may arise again.

MR. SHEPLEY: If none of the other gentlemen desire to speak, there are a good many subjects to discuss and the deputation desires, of course, to return home tonight. I think last night some members of the Association spoke very briefly on the next topic, which is with regard to rebating. Perhaps it would be sufficient to say, in addition to the general expression of opinion last night, that in the case of each specific company we have made inquiries from the Managers as the work of investigation has proceeded and probably we have a very fair expression of the general view. The next clause is in regard to the gain and loss exhibit. We have Mr. MacDougald here, and he, perhaps, will give us something with regard to the last part of that clause. I do not quite know what the objection would be to a gain and loss exhibit, the functions of which have been pretty well demonstrated during this inquiry—what the objection would be from the standpoint of any company to a gain and loss exhibit yearly, so far as this country is concerned. What do you think about that, Mr. MacDougald? Do you care to express a view?

MR. MACDOUGALD: It opens quite a large subject, and as I am not accustomed to the honour of addressing Royal Commissions, I do not feel quite adequate to the occasion. If you will put up with a few halting periods, I will do my best.

I might first say that I have been in this country some eight years, and I have endeavoured to make myself thoroughly acquainted with the conditions of Canadian insurance. My previous experience has laid entirely in the city of London, and I have, therefore, had the opportunity of gaining a very close acquaintance with the practice and methods of British companies and with the views which pass current with the British Institute of Actuaries. To come to the point at once—possibly I may elaborate it as best I can a little later—the gain and loss exhibit involves an annual actuarial valuation; and not merely so, it also involves a declaration of the result of that valuation, and in so far as the result of that valuation touches the question of gains or losses from mortality, it becomes, I was going to say, objectionable; perhaps it is not too strong a word, it becomes objectionable in consideration of the fact that the short period of one year, even in a moderately sized company, is not regarded amongst the British actuaries as a sufficiently long period within which mortality may have play. Now, if this gain and loss exhibit, did not take account of the whole of those nominal profits, shall I say, from mortality—possibly that point might be met to some extent—but I am not prepared to say that that would effectually remove the objection, I very much doubt if it would, it is a point I have never heard discussed. I have never heard two opinions on the subject; it is considered by the British companies, who, I may say, are managed mostly by trained actuaries, that the shortest period during which mortality should be brought into play is, say, five years, and that fact, I think, explains the reason why, in the majority of cases, a five-year period is the term adopted by the British companies for the making of actuarial valuations and the distribution of divisible profits. Now, without that element this gain and loss exhibit falls to the ground. That is to say, it is not a balance sheet in any sense of the word. You cannot make the two sides equal; you cannot determine what the difference is. The objection is technical in its origin, but it is very practical in its results. There are, of course, other very important features in the gain and loss exhibit, and some of them, the most

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important features from the view point of the British actuaries, are provided for in the Board of Trade returns. The form of returns to the Imperial Government was the result of the passing of the Act of 1870, and the British Institute of Actuaries and the Faculty of Actuaries were largely, one may almost say mainly, factors in the framing of the Act and in the passing of the Act itself. If I take one of the first points that one naturally looks to in a gain and loss exhibit, I refer to the point which is regarded in the British insurance world as being the vital point; that is to say, expenses. I make no apology for saying that the question of the ratio of expenses—I do not say how it is to be arrived at—is the crucial question over there in the matter of life insurance. It is considered that if the expenses are kept within proper bounds, then the necessity for seeking high interest yielding securities does not exist to such an extent. You may make profits without risking in any sense of the word or in any degree, your capital. There is no necessity to rush business and in any degree impair the class of risk which is taken. You have a better opportunity of building up reserves, the possession of which enables you to go to a valuation rate of interest which is sufficiently low as compared with the actual interest yielded, to provide handsome profits. You may invest in securities which will yield you net all round 5 per cent., and if you value at $2\frac{1}{2}$ you have a profit of $2\frac{1}{2}$ per cent. on your interest. You may, in another country, get securities which will yield you 6 per cent., but if you value at $4\frac{1}{2}$ your interest profit is $1\frac{1}{2}$ per cent. That is to say, a company earning 5 per cent. on its funds is obtaining a much larger interest profit for its policy holders than another company which is getting 6 per cent. on its funds. These factors have to be taken into account and the one set against the other in determining the real condition of the company. Now the British companies, I won't say have to, but they do say in their returns to the Imperial Government how much of their premiums is represented by loading; the percentage of the premium and how much of that loading is expended in the management of the business. Now, if you look at those returns you will find that possibly, well, I think certainly, over

90 per cent. of the companies reporting to the Imperial Government show that they conduct their business within the expense loading. Both old and new companies. Some companies in answering that question—the question how much of the premiums is reserved—simply say “the whole of it,” but they do not say what the percentage is. The percentage of expenses is mentioned, but in those companies you cannot compare, you cannot say whether they are spending more or whether they are not; you do not reach a result; you can look at some other figures and frame your opinion, you can make an approximation. That is regarded as somewhat of a defect, but in nine cases out of ten the British companies, in making their returns, voluntarily state those percentages in both instances. That is not required in the Board of Trade returns; it is voluntarily stated by companies, and I shall be pleased to send press copies giving information in regard to all British companies.

MR. SHEPLEY: We have the Board of Trade returns.

MR. MACDOUGALD: If it is not in the Board of Trade returns then such information is given in the returns as will enable you to get at the point.

MR. MACAULAY: Before Mr. Macdougald passes from that point, I would like to make a remark on it, What the British Board of Trade Returns call for—if Mr. Macdougald will permit me,—is, what proportion of the loading on profit business is reserved; in other words are the companies valuing on a net premium basis or are they not; what proportion is reserved for future expenses and profits. A different thing from what Mr. Macdougald is stating, if I understood him correctly.

MR. MACDOUGALD: I am afraid Mr. Macaulay has not understood me correctly, and if he has not, I must be at fault. What he states is perfectly correct, but as against that you have the actual percentage of expenditure mentioned by the companies and you can still see the difference.

MR. SHEPLEY: That, you say, is however, a voluntary statement as far as the Returns are concerned.

MR. MACDOUGALD: I will not commit myself to a statement whether it is voluntary or compulsory, but I think I shall be right in saying that

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the Returns which are compulsory are sufficiently explicit to enable, we will say an actuary, to determine those points, and as a matter of fact they are determined and printed freely all over the country. Now, of course, this voluntary limitation, shall I say, of the companies over there of expenses is a practice for which they have been very freely criticised in the States and sometimes in this country. It has the result of their not doing the volume of business in the issue of new policies, which has been such a craze in the United States, and which we, as an insurance community, in my individual opinion, are affected with. It comes to this, that a body corporate can no more digest the volume of new business with which it seeks to surfeit itself than the human body can put up with more food than it can digest. There are some other points which I have noted, but probably I have said enough on this particular section to show the reason why the British companies may have a very serious objection to a gain and loss exhibit in any form which includes—and no form can be devised which does not include—the determining annually of mortality results.

MR. SHEPLEY: I would like to ask you a question about it if you do not mind, Mr. Macdougald. Would that not equalize itself? You know, of course, what your mortality is expected to be according to the table which you are employing. Then at the end of the year you also know what your actual mortality for that year has been. Then, if the mortality next year, or in any year of the five you speak of, if the actual mortality fluctuates, you arrive at the end of the five years at the same result by annual statements as you would have in one quinquennial statement, in respect of mortality, I mean?

MR. MACDOUGALD: That is perfectly true.

MR. SHEPLEY: Would that not modify or remove your objection to the computation of mortality each year?

MR. MACDOUGALD: If I am to understand your question as a suggestion?

MR. SHEPLEY: It is only a suggestion, of course.

MR. MACDOUGALD: That the gain and loss exhibit as applicable to, shall I say, outside companies, is to be a quinquennial rather than an annual requirement?

MR. SHEPLEY: I understood you to say that actuarial practice in Great Britain rather leans to the view that you could not have, except at the end of a quinquennial period, a fair result upon which you could compute your actual mortality as compared with your expected mortality.

MR. MACDOUGALD: Yes.

MR. SHEPLEY: Then, if you reach the same result by taking yearly periods, at the end of five years, that you would have reached, if you had waited till the end of five years, would not that objection be modified a great deal?

MR. MACDOUGALD: That would not remove the objection to the publishing of results annually.

MR. SHEPLEY: I think I see what you mean.

MR. MACDOUGALD: It would not remove the objection to the publication of annual results, and unless you have the publication of annual results you cannot have the gain and loss exhibit.

MR. SHEPLEY: I realize that.

MR. MACDOUGALD: But, as I say, the very subjects which are dealt with in the gain and loss exhibit, so far as I know the British mind, there would be no objection whatever to them.

MR. SHEPLEY: They might be included in the return without taking the form of a true gain and loss exhibit?

MR. MACDOUGALD: Yes, provided the answers were confined to the business in this country.

MR. SHEPLEY: You could keep that separate?

MR. MACDOUGALD: We do. We could give you information in regard to all these other points, as applicable to the business done in Canada. You could get nearly all you want put in another form.

MR. SHEPLEY: I am very much obliged to Mr. MacDougald.

MR. SANDERSON: In connection with this gain and loss exhibit, your Honours, and its bearing upon the Canadian companies. Canadian companies doing business in the United States have had to comply with this demand from some American departments. It was extremely onerous at first; our accounts and books were not kept in a shape to yield the results at first, but if we wanted to keep on doing business in those States we simply had to comply with the de-

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mand. Then, when we went to England to do business we were required to report according to the British Board of Trade Returns. Our own method of accounting in Canada was not sufficient. We had to fall into line and supply an extremely elaborate system of returns on the British Board of Trade method. Therefore, I think the British companies would not be under any more onerous conditions in complying with the gain and loss exhibit, than we were in complying with theirs. It is a reciprocity. As regards the gain and loss exhibit that applies to Canadian business, I do not think it would be at all effective. It would not meet the situation. It would not be a gain and loss exhibit of the whole company, and if the British companies were entirely left out of that gain and loss exhibit it would be unfair to the Canadian companies. We do not want to see the British companies removed from the field; we want to have them here; we think theirs is a healthy influence and we would like to see Mr. MacDougald passing muster on this gain and loss exhibit. I think the actuaries of the companies are all agreed that the gain and loss exhibit is in every respect fair.

MR. SHEPLEY: You mean the one we have used during this inquiry?

MR. SANDERSON: Almost every gain and loss exhibit.

MR. SHEPLEY: Cannot you actuaries compile a form for us that would give the information and yet not be objectionable?

MR. SANDERSON: I might say this, the large American companies doing business throughout the world are required to keep their expenses within the loading, and they ascertain the loading from their business throughout the world. A large volume of that business is derived from foreign countries where they receive extremely high rates and there is thus drawn into the loading factor a much larger loading than if the business were Canadian or American; so that they get a large area of loading there that they would not get if that business were American or Canadian and they are thus able to make an unfair comparison with a company doing home business only. A company with the low premiums is put at a disadvantage with a company receiving high premiums.

MR. BRADSHAW: That objection, Mr. Sanderson, also applies to Canadian companies doing business outside of Canada and in districts which are presumed to be unhealthy. You cannot take a company doing business in China and Japan, where the rate is one-third, perhaps, higher than the Canadian rate—the difference between the Canadian rate and the China rate would be thrown into loading in addition to the ordinary loading.

MR. SHEPLEY: That is an argument addressed to Mr. Sanderson, I think.

MR. SANDERSON: No, I take exception to that. We have no foreign business with excessive loadings. Ours are all home rates. I think it affects our friend Mr. Macaulay here.

MR. MACAULAY: I am saying nothing.

MR. SHEPLEY: If any other member of the Association desires to say anything on that point? If not, we will go to the next, as to the Government Statement forms.

MR. BRADSHAW: We will supply forms that we think would meet that.

MR. MACDOUGALD: If I may pause here, in regard to that form, I would like to point out that under the British Board of Trade form—and I make no apology for mentioning the British form, because I see it is the text on which we are discoursing tonight, at the head of this memorandum—under that form returns as to the accounts are required to be strictly in harmony with the principles of double entry bookkeeping, shall I say scientific bookkeeping. They are not in the form of cash, income and expenditure, but they are in the proper form of revenue account and balance sheet. I am not expressing the opinion of other members of the Association on this point, I am expressing only my personal opinion, but it does seem to me that in making an amendment of the Act we ought to recognize that accounts should be rendered according to scientific rules. We have got a suggestion there, for instance, that at least one of our auditors shall be a chartered accountant. One reason why the accounts should be in that form is that they are more easily kept, and particularly is that so when the accounts, are at all complicated. Another reason is that there is less lia-

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bility to error, bona fide error, I am speaking of, because they are interlocking, self-checking, if the balance is not seen, if the accounts do not balance there is an error or a balance of errors. If you have the other form you are much more liable to bona fide error; you are also more open to errors of another character and it does seem to me that it is very late in the day for us to continue a form which was obsolete at least one hundred years ago.

MR. SHEPLEY: Is the form which the Association has in view to furnish us, a form which will obviate the difficulties you are speaking about? If not will you let us have a form that you yourself would approve of?

MR. MACDOUGALD: I would approve of practically the Board of Trade Returns, except that I would give information in more detail. It is the only form, in fact, that harmonizes with scientific bookkeeping. Any chartered accountant will recognize that at once.

MR. SANDERSON: In that connection, Mr. Shepley, I think we ought to say that that question was fairly well discussed at a meeting in Toronto last week, the question of the cash system versus the revenue account system, and the conclusion was that the cash system has been required in Canada for so many years and is the prevailing system in the United States and has got so thoroughly engrained into our system in America that it would be difficult and, perhaps, inexpedient to make any change. I think that is the view of the Association generally, while we admit the merits of Mr. MacDougald's contention.

MR. SHEPLEY: You admit that the other is more scientific?

MR. SANDERSON: Yes.

MR. MACDOUGALD: It is also a much more simple matter to make any adjustments that may be required from a revenue account to a cash account than the reverse operation.

MR. SHEPLEY: The next paragraph in the memorial deals with the maintenance of the principle of net premium valuation. The general principle of the clause is, especially when taken in conjunction with the schedule you have annexed, quite clear. Is it desirable to have any further discussion with regard to that or will you leave it as it is for us to consider?

MR. MACAULAY: Your Honours, this was, perhaps, the most difficult question that the Association had to deal with.

MR. SHEPLEY: It is the most technical question, perhaps.

MR. MACAULAY: One of the most technical and one of the most difficult to find a satisfactory solution for. It has taken up a great deal of time, both on Thursday of last week and yesterday. We finally, I am pleased to say, agreed unanimously on a basis as set forth there, which all of us, without exception, recommend as the best method of dealing with this question. The members of the Association are agreed that the depart from the principle of a net premium valuation and to adopt a gross premium valuation of any kind would be a mistake. At the same time we are also agreed that some allowance ought to be made which any young company, or any company at all that may be pushing for business, that wishes to do so, may take credit for, as part of the expense of securing new business. It is the same question—which has been discussed at great length—the same principle which led the Armstrong Committee to recommend the select and ultimate deduction. In applying that principle there were three courses open to us. We could adopt the select and ultimate principle as applied in New York. Mr. Dawson's method. We could adopt the preliminary term system. Or we could adopt the system, which I myself recommend, of taking the O.M. select, in conjunction with the O.M. 10. After full discussion we put all of those three aside and agreed upon a system which is a sort of modification and which commends itself to all of us. It is practically the modified preliminary term for the first year, but with this proviso, that the full reserve shall be reached with the payment of the fifth year's premium. We think that is justifiable because tables which have all been produced before the Commission, show that at the end of five years the company ought, on any policy, to have its full reserve and that, therefore, that is a proper time to allow for it to get up to the full reserve. This plan of practically a modified preliminary term but with the proviso that it shall reach the maximum, the full reserve, with the payment of the fifth premium, commends itself to all of us. We, how-

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ever, do not wish the phrase "preliminary term" to be used at all and, therefore, our suggestion is that it should just be that any company should be at liberty to make use of this deduction, using the expression in the Blue Book, the H.M. $3\frac{1}{2}$ basis with deduction for cost of securing new business in accordance with Section so-and-so of the Act, and then, in the full returns of the company the amount of that deduction shall be set forth in full. I think if the life officers have done nothing else, in this clause they have done something in the way of solving this very knotty problem, and presenting it in a concise form to your Honours.

MR. KENT: Can someone give us an illustration of that method?

MR. MACAULAY: The schedule gives an illustration of every case.

MR. SHEPLEY: There is a schedule which, I think, will be quite intelligible upon examination. What you are suggesting here is not taking another table at all, but sticking to the H.M. table?

MR. MACAULAY: What we are speaking about now, refers to that one point alone. We can take up the other question afterwards. We are speaking only of the initial allowance for expenses.

MR. PAPPS: Might I be permitted to point out this feature in regard to this proposed method? In arriving at the actual reserve held, there is a certain amount borrowed from that premium of the first year in order to meet the expenses, which are very much heavier, as your Honours know, in the first year; but that amount which is borrowed from the first premium is absolutely made good and added to the net premiums from the second to the fifth year. The point I want principally to dwell upon is this; every company using this method would make the regular net premium valuation so that no special tables need be prepared for this. They would show that net premium analysed in their accounts, among the liabilities, and a simple addition to equal the amount of this deduction, would show that deduction, so that the actual amount which they fell short in the net result would show in the accounts. Furthermore, this deduction being the same for every plan of assurance which it applies, that is every plan calling for a net premium equal to or greater than the whole life plan, these would be grouped by amounts according to

the calendar dates of issue of certain ages, and then it simply means one multiplication for every age and the addition of the result. No special tables would be required than the table furnished in this schedule.

MR. SHEPLEY: The result would be to show your reserve short by whatever that computation produces.

MR. BRADSHAW: In gross. The net amount carried out in the extension.

MR. SHEPLEY: In other words you do it by a grouping system instead of taking it in each particular policy?

MR. PAPPS: It will show in the schedule.

MR. SHEPLEY: It is not quite clear to me that the method you have taken of making your reserves good at the end of the five years will infallibly bring that about. You convert this difference between the term premium and the whole life premium into an annuity running for four years. Now, will that infallibly bring that about?

MR. BRADSHAW: Infallibly. This table shows it. There is an illustration here.

MR. SHEPLEY: Then we need not waste time over that. Is there anything else to be said about this clause?

MR. MACAULAY: Not about that aspect of the clause, but perhaps this is the time to draw attention to the fact that there is a point which the Association did not have time to agree upon, although it was very fully discussed. The question, whether or not, any further allowance should be made to prevent a company actually falling into insolvency; whether there should be a little margin allowed between the rate here and the actual insolvency rate, and if a company took advantage of that, to what extent it should be penalized or subjected to some restriction.

MR. SHEPLEY: Have you dealt with that in any of the memoranda you have been good enough to leave with us?

MR. MACAULAY: No. We discussed that but we were still discussing it yesterday when the time came for us to stop. Do you mean me personally? I did, but the Association has not dealt with it.

MR. SHEPLEY: What you sent me from Montreal embodies your views and, of course, is not part of the Report.

MR. MACAULAY: Yes. I might

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draw your attention to the fact that there is a point somewhat like that in the Insurance Act under sub-section 10 (b) (ii), that gives the Commissioner of Insurance the right to continue the license of a company for a period not exceeding three years, even if it happened to be technically insolvent under the Act. It is just a question whether that clause should be substituted by one something like this I have written out, but anything I say now must be understood to be absolutely my own views and not of the Association at all, because the Association did not have time to agree upon it. This is my suggestion "That sub-section 10 (b) (ii) of the Insurance Act be amended so as to provide that if any company be not solvent, if its reserves were calculated on the basis set forth in sub-section 10 (a) of the Act, taking into account also the allowance for initial expenses, previously mentioned, but would be solvent if its reserves were calculated at a rate of interest one-half of one per cent. higher than the rate assumed in the Act, but in no case above $4\frac{1}{2}$ per cent.; then the license of such company shall not be withdrawn but it shall be permitted to issue non-participating policies only until it shall have a surplus without the deduction from the normal reserves due to such raising of the interest rate."

MR. SHEPLEY: Will you let me have that draft?

MR. MACAULAY: I would like to change it a little and I do not know that it is wise to discuss it now because we are not agreed upon it.

MR. SHEPLEY: I would like to have that suggestion even if you are not agreed upon it. The next clause deals with estimates and illustrations of surplus. Is there any desire on the part of any member to elaborate that or shall we pass on?

MR. BRADSHAW: I think the paragraph fully explains itself.

MR. SHEPLEY: Then the next paragraph suggests an amendment and explains itself fully. It seems to me, if I may say so with respect, to be a very admirable provision.

MR. MACDOUGALD: I might say, your Honours, that it is intended that those should be in addition and not in substitution. Perhaps the wording does not quite convey that.

MR. SHEPLEY: I will add "in addition."

MR. RICHTER: I would say, your Honours, that some companies have only one auditor. The clause says

"signed by the auditors." That would imply that there must be two. I would suggest that it be changed in that respect.

MR. SHEPLEY: "Auditor or auditors." And if there was only one he should be a duly qualified member of an incorporated society of accountants, and if there are two, one of them should be.

MR. RICHTER: Also it is not possible, or not very practical, at any rate for every company in every place to have such an auditor. We had such an auditor. For a number of years there were only two in the city. One died and the other was unable to take up the work and we have not been able to get a chartered accountant to take up that work.

MR. SHEPLEY: I think there are any number of chartered accountants not very far away who would be willing to undertake the business.

MR. RICHTER: Probably in that case they might see fit to move to London, but our audit, on account of a large part of our business being industrial insurance, is a rather voluminous affair and we cannot very well bring an auditor all the way from Toronto to go into this detail which has to be practically done every week, the audit is practically continuous throughout the year.

MR. SHEPLEY: Probably with a requirement of this sort there may be an influx of chartered accountants into your city.

MR. RICHTER: It is simply our inability to comply with that part of it in the meantime that makes me call attention to it.

MR. SHEPLEY: The next suggestion is that there shall be a suitable provision in any amendment made simplifying the conditions under which two or more life insurance companies may amalgamate or under which one company may transfer its business to another. Is that suggestion made from a financial standpoint or from an insurance standpoint, or from both?

MR. BRADSHAW: It is made with the idea that if an amalgamation is to be brought about, it shall be on proper lines. Proper to policy holders, shareholders and all concerned in the company. There is a requirement at present in the British Insurance Act on that subject.

MR. MACAULAY: In that connection I might add that the idea should be not to make it hard, because we

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feel, with all deference to the younger companies, that there are so many companies starting in Canada now, that, for the good of the business, the time is likely to come when some of these should be absorbed.

MR. SHEPLEY: There will be centralization?

MR. MACAULAY: Yes, and there ought to be something to facilitate it. I do not know that the British Act facilitates it. We have not studied out just how it should be done. We think it should be with the idea of facilitating it, but on proper lines.

MR. SANDERSON: The requirements in Australia may help in that regard.

MR. BURKE: I wish to make reference to a question just at this point. It is not on behalf of the Association, but purely in connection with my own ideas and my own company; and that is, if it was possible in dealing with this subject to make it easy for a company to adjust its capital shares in any way without amending its charter, that it might be equally convenient and adaptable to a company that might require to adjust its capital stock at any time. That is purely a personal matter and not on the part of the Association.

MR. MACDOUGALD: I would like to give very briefly an illustration of the awkwardness of the fusion under the Insurance Act of Canada as it stands today. A British company, the British Empire Mutual Life Insurance Company, some three or four years ago, transferred its business to another company called the Pelican Company, a British company doing no business in this country. The British Empire had been doing business in this country and had been called upon to put up a deposit with the Government of about five times as much as they needed to have done, as the Act required. I will say \$250,000. When the fusion came about it took the form of the British Empire Mutual Life Insurance Company being taken over and its assets and liabilities in trust by the Pelican Company. When that was completed the legal existence of the British Empire Mutual Company ceased. The new corporation, the Pelican, enlarged its name to the Pelican and British Empire Life Office, and sought to do business in this country. It was not doing business here,

except that it came here before any life company did business on these shores and retired many years ago. It had now to comply with the requirements of this Act. The Pelican Company had no policy holders on this side of the Atlantic, but the Insurance Department said, "We do not care about the fact that you have put up \$250,000 before as the British Empire Mutual Company; all we are concerned with is the fact that the Pelican Company wants to do business here and you have to put up—not \$50,000, but \$100,000, because in your constitution you have the power, although you have never exercised it for one hundred years and have no intention of exercising it for another hundred years, of doing another class of insurance." The company said, "We have to put up \$100,000? What for?" "For the protection of your policy holders." "We have none." "You are going to have some." "But there is \$250,000 there already, and every cent to your own approval, equal to the liabilities of the British Empire Life Insurance Company. Can we not, simply, keep with you in approved securities as much as our liabilities are in the country, without putting up another, an initial deposit?" "No, the Act will not allow it." It was no trouble, of course, for the company to comply with the Act, and it was at once done, but it is conceivable that those conditions may be a hardship to other companies in future days.

MR. SHEPLEY: Then the next is a formal matter. "Two or more persons resident in Canada appointed by the company and approved by the Minister." Inserting the word "or in a trust company incorporated in Canada." Then there is a suggestion which may recommend itself to our friends from the Provinces. Mr. Geary reminds me that when Mr. Bradshaw was being examined in connection with another matter, that that was pretty fully taken up and we understand the suggestion of course. Then the next is the last clause in the memorial.

MR. BRADSHAW: Might I just say a word about that last paragraph? The Association endeavoured to secure incorporation and it found some difficulties in the way of doing so. It got Letters Patent but on account of some legal difficulties with

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which I am not acquainted just now, it was not able to organize. It has been thought desirable to ask for incorporation believing that it would be of very great value to the business of life insurance, and probably of some value to the Department of Insurance, at times when amendments are sought to the Insurance Act, when it might be felt desirable to have conferences with the Life Officers' Association. It has also been thought it would be desirable at such a time as the Association might be anxious to seek relief from oppressive taxation by the Provinces, going as an incorporated body would add to the remarks that might be made and to the relief that would be sought. We had in mind an incorporation somewhat similar to that of the Bankers' Association. The Bankers' Association is incorporated and referred to in the General Banking Act of Canada. Our idea was to suggest to the Commission that the Association be incorporated and made part of the Insurance Act. It would, I am sure, add very greatly to the influence of the Association in making for sounder and better life insurance conditions in the Dominion; it would be helpful to the policy holders, helpful to the managers and helpful to the companies.

MR. SHEPLEY: Would you find it possible to prepare such a clause as would outline the object at which you aim? You will understand what you desire very much better than we will.

MR. BRADSHAW: We will be very pleased to do that.

MR. SHEPLEY: There are some subjects which have not been touched upon in this memorial, and although I recognize that the views we may elicit with respect to those subjects will not be representative views, it is desirable that we should have individual views from gentlemen of the experience of those who are giving us the pleasure of their assistance upon these subjects. I should like to have a couple of hours with them tonight, if your Honours can make it convenient.

JUDGE MAC TAVISH: Certainly. Then we will adjourn now until 8 o'clock.

(At 6.15 p.m. adjourned to 8 p.m.)

The Commission resumed at 8 p.m.

LIFE MANAGERS' ASSOCIATION.

MR. SHEPLEY: I had intended to make the first subject of discussion a question which has been spoken of several times during the inquiry, the question of State insurance, but I desire that Mr. Hellmuth should be here, and I will occupy the time in the meantime with a discussion of another subject, if the members of the Association will assist us with it, and that subject is a subject which was perhaps vastly dealt with by the Armstrong Commission, the subject of the limitation of expenses, and in connection with that the limitation of the volume of new business which a company should do in any one year, though, as I said before, this won't be treated as being said in a representative capacity of the views of the members of the Association on that subject, and may I ask that the discussion be as terse as possible, because we have several subjects to discuss, and our time is rather limited.

MR. MACAULAY: I was not going to say anything about this, but if I remember right the minimum restriction upon the volume of new business imposed by the Armstrong commission is quite low, and we thought it did not affect us at all. We never dreamed that that would affect us. If you can pass on to another matter we can answer that in a few minutes.

MR. SHEPLEY: As Mr. Hellmuth is here now, I should like to hear the views of the members of the Association upon the subject of insurance by the State. I understand that there are perhaps a good many members of the Association who have not thought much about the matter at all, perhaps not considered it in any definite form.

JUDGE MAC TAVISH: Those who have considered it I understand are in favor of it.

MR. SHEPLEY: I understand perhaps some are in favor and some are not, and I think we should hear first those who are in favor of it.

JUDGE MAC TAVISH: They probably will not take up so much time as the others.

MR. SHEPLEY: That depends upon the relative numbers, and upon that I confess I have not accurate information. I see Mr. Macaulay pointing to Mr. Bradshaw. Will Mr. Bradshaw tell us what views he has formed on the subject?

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MR. BRADSHAW: I am afraid my views are not in accord with the views of most of my colleagues, but I judge that they will give me credit for sincerity in holding the views I do upon that subject. I have endeavored to consider this matter from a public standpoint strictly, and therefore believe that State insurance is practical under certain conditions. I believe that State insurance would have a most helpful effect in educating public opinion as to the merits and the necessity of life insurance, and thus incidentally prove of very great benefit to the life insurance companies in Canada. I believe that State insurance under a sound management would be helpful in assisting the regular life officers in reducing their rate of expense, and also helpful in assisting in solving some of the other vexatious problems which they are constantly brought in contact with. I do not think that such a department would be antagonistic to the interest of the regular life insurance companies, but would rather prove an adjunct to the propaganda of the popularizing of life insurance. I think it may be likened unto the Post Office Savings Department. The experience has been, I believe, that the Post Office savings department of Canada has rather helped the chartered banks, has assisted in popularizing the thrift and increased the savings accounts in the chartered banks of Canada. So for these reasons, and for some others, I believe that State life insurance would not be an evil, but a great blessing to the public of this country, and I believe that the field is broad enough and is growing, and is able to sustain not only a life insurance department, but to sustain and to make even more prosperous the life insurance companies which are at present operating in this field. The only example of successful State life insurance which we have is that in force in New Zealand. State life insurance as operated in Great Britain is not a success, for the simple reason that it is not conducted in a business like way, nor on a commercial basis. If the Commissioners care to know something about the State life insurance department in New Zealand, I will be pleased to let you have some particulars of it, it being the only State life insurance department that I know of that has been successful.

MR. SHEPLEY: Perhaps you have literature upon the subject more

recent than that to which we have had access.

MR. BRADSHAW: I have the last report.

JUDGE MAC TAVISH: For 1905?

MR. BRADSHAW: 1905.

JUDGE MAC TAVISH: That is later than anything we have had so far.

MR. SHEPLEY: Bearing in mind what I have said about being terse, please tell us about it.

MR. BRADSHAW: I think all I have to say can be said in ten minutes.

MR. SHEPLEY: I should call that extremely terse.

MR. BRADSHAW: The State Life Insurance Department of New Zealand was established in 1869 as an independent insurance department. Its management is vested in an officer, the Government Insurance Commissioner, appointed by the Minister on the recommendation of the Ministry of the day. It limits its insurance to \$20,000 on any one life. In all litigation the Commissioner may sue and be sued. In respect to disputes between the Commissioner and other parties as to annuities or death claims, matters may be referred to arbitration. The department is subject to the ordinary State audit. Revenue account and balance sheets are presented yearly to Parliament. Actuarial investigation is made every three years. All profits divided amongst participating policy holders. Practically in every respect the department is conducted as a regular life insurance company on the purely mutual principle. All expenses and taxes are duly paid by the department. All classes of policies are granted. State guarantees on the face of policy. Investments do not materially differ from those of other life officers, composed chiefly of Government and municipal debentures, loans to policy holders and real estate mortgages. The limit of a loan to any borrower is \$50,000. A board consisting of colonial treasurers, solicitor general, surveyor general, commissioner of taxes, the public trustee and the insurance commissioner, controls and manages the investments. The average rate of interest earned on investments is slightly over four and a half per cent. It has been slightly increasing during the past few years. The commissioner is the general manager of the institution. The official staff

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is selected by him, and is very similar to that of any other regular life office. The colony is divided into four districts, supervised by local managers. They have regular canvassing agents, and they arrange for a thorough canvass of their district. Local postmasters are employed as agents and they are paid a commission. Travelling agents are also employed. The work, therefore, is conducted in the same way as any of our regular life insurance offices in Canada are conducted. The form of policy granted is very similar to that of other regular life offices, with profits for surrender values and so forth. The department has a special civil service department, in which practically all the civil servants are insured. At the close of 1905 it had 45,000 policies in force. Its new business that year was \$3,580,000. Its total insurance in force was \$53,000,000. Premium income \$1,600,000. Its interest income \$845,000, and its total assets approaching \$20,000,000. Its rate of expense is not as low as that of the Australian Mutual Provident, but is a moderate rate of expense. In 1905 the rate of expense, including taxes, was 19.8; three decimal one per cent. represents the rate of taxation; so, excluding taxation, its rate of expense will be 16.7, the rate of expense on its total income—that is, including interest—was .13 per cent. Its assets, 45 per cent. invested in mortgages, 17 per cent. in Government securities, 17 per cent. in loans on policies, nearly 4 per cent. on municipal securities, and other small assets small percentages. Its basis of valuation is the same as our own Government standard here, H.M. three and a half per cent. It has been suggested by Mr. George King and Mr. R. Price Hardie, probably two of the best actuaries in Great Britain, that the valuation rate should be reduced by one-quarter per cent. down to three and a quarter per cent. No table has been recommended. In fact the Government actuary points out that it would be advisable not to change the table on account of the small differences in value brought out by the new table, and the present table, the H.M.—

MR. SHEPLEY: The present table is what?

MR. BRADSHAW: The H.M. three and a half. The surplus account by the department in the last three years—they make a valuation

every three years, something like the British companies—the surplus earned in those three years amounted to something over a million dollars, and they were able as a result of that to pay to their policy holders a bonus at the rate of one per cent. per annum on the sum assured. It is a compound reversionary bonus, and that gives to policies of recent date ten dollars per thousand per annum as a bonus addition, and older policies at the rate of about fourteen dollars per thousand. The premiums are somewhat less than the premiums of competing offices in that country. The bonuses, however, are not as good as the bonuses of companies like the Australian Mutual Provident, but I think if you make a comparison between the premiums paid and the bonuses, that there would not be a great deal of difference between the two offices, and it is what we would regard in this country as a fairly well conducted life insurance company. There are no better officers in the world than the New Zealand State Insurance Department, both in respect to bonuses and as to the rate of interest.

MR. SHEPLEY: There is one question I should like to have an answer to: Is there a restriction there in the insurance department upon the amount of any one policy?

MR. BRADSHAW: Yes, \$20,000.

MR. SHEPLEY: That is the limit?

MR. BRADSHAW: Yes. That is simply because the department is of a moderate size at the present time. That limit will no doubt be removed just as soon as the department gets into larger figures.

MR. HELLMUTH: Have you ascertained at all how the proportion of insurance in the colony under the State system and under the company system compares with what it was five or six years ago? Have the State gained upon the insurance companies in the proportion of insurance that they carry?

MR. BRADSHAW: I do not recall looking into that, but I am inclined to think that the State has been doing a gradually increasing business. I do not know about the proportion.

MR. HELLMUTH: I saw somewhere that the State had been gradually overhauling the companies in the amount of insurance written.

MR. BRADSHAW: Yes.

MR. HELLMUTH: Have you compared the expense of the Government or State insurance in New Zealand

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with the expense of the companies doing business there?

MR. BRADSHAW: Yes.

MR. HELLMUTH: With the American companies for instance?

MR. BRADSHAW: The expense rate is lower than the American companies but it is higher than the Australian Mutual Provident which also operates there.

MR. HELLMUTH: Is that higher than the Australian Mutual Provident operating there—the total rate?

MR. BRADSHAW: The total rate. You cannot compare the Australian Mutual, because the head offices are not situated there. You have to compare the total expenses and income of the two concerns.

MR. HELLMUTH: Do you know whether they write endowment policies?

MR. BRADSHAW: Yes.

MR. HELLMUTH: They write every class of policy that a reputable life company would write here?

MR. BRADSHAW: Yes, they are situated in the same way as a regular life insurance company.

MR. HELLMUTH: Have you looked at all into the question of the State insurance in Belgium?

MR. BRADSHAW: No, I have not.

MR. HELLMUTH: Are you aware that there is a State insurance there?

MR. BRADSHAW: No, I am not.

MR. HELLMUTH: You have not considered it at all?

MR. BRADSHAW: No.

MR. MACAULAY: Might I make a remark about the question of expense? Of course I did not know that this was coming up. We had some tables at home but I did not bring them with me. I have an extract here from papers that I have. The average expense of eleven companies doing business in New Zealand, divided in the usual way between new business and renewals was 107.1 per cent. of the new premiums, and 10.6 per cent. of the renewals. The corresponding expense of the New Zealand department was 116.8 per cent. on new business and 11.7 on renewals. So that the New Zealand department is not conducted more economically than the other life companies with which it is competing. As Mr. Bradshaw says it is practically like an insurance company only the Government guarantees it.

MR. SHEPLEY: Your figures are taken from the Australian Mutual Provident?

MR. MACAULAY: No, that is the average of all the eleven companies

doing business in New Zealand competing with the department, so it shows that not merely is it as high as this particular company, but it is higher than the average of all the companies with which it is competing. Although at the same time it is a first class institution. I am not in any way running it down.

MR. SHEPLEY: There are two questions I want to ask Mr. Bradshaw. Have you any information with respect to the actual mortality with respect to the Government insurance there as compared with the table of expectation upon which they are working?

MR. BRADSHAW: Only the general statement of the actuary in the report that it is very much below the mortality as disclosed in the H. M. table.

MR. SHEPLEY: Are you able to make any comparison between the mortality in respect of that State insurance and the mortality experienced by regular companies that are doing business in New Zealand?

MR. BRADSHAW: No, but I would think there would be practically no difference.

MR. SHEPLEY: That would depend entirely upon the care with which the selection was made?

MR. BRADSHAW: Yes.

MR. SHEPLEY: You have told us what the limit of insurance there is. Is there any reason that occurs to you as a man of experience in insurance for making a difference in respect of the limit in this country and the limit in Australia?

MR. BRADSHAW: No, it altogether depends upon the size of the company. I suppose when the State Department commenced their limit would be a thousand pounds, and as their business increased in volume that would be largely increased.

MR. SHEPLEY: That is quite in accord with the practice of well conducted companies?

MR. BRADSHAW: Yes. I intended to add two or three statements to what I said, if I might be permitted. I said that I believed in State insurance but on certain conditions. First, that it be strictly independent of politics, and that appointments be made solely on the recommendation of the management. Secondly, that the affairs be managed by a thoroughly competent life insurance man, one who has good business judgment and a sound actuarial training, and who would be granted such a measure of

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freedom and liberty of judgment as is afforded the manager of any other important financial corporation. And the third, is that the business be conducted strictly in the interest of policy holders and with the same scale of aggressiveness that would obtain in the conduct of a high class life insurance company.

MR. MACAULAY: Mr. Bradshaw's last remark covered nearly all I had to say on this matter, because my position is simply this: I have no objection in the world to the establishment of a State life insurance department if it is thought desirable. I quite agree with Mr. Bradshaw that if these different things that he speaks about, if such a department can be managed free from politics, if the management is given a free hand, if the investments are not put into Government securities yielding very low rates of interest, but the same scale is exercised in selecting them as in the case of a regular life insurance company, and if all the other things that go to make a successful life insurance company are put into a Government institution, I see no reason in the world why it should not be a first-class success. But even if it were a first-class success I do not think it would amount to anything better than another first-class company. That would be all that would result.

MR. SHEPLEY: Do not forget the mutuality that is involved.

MR. MACAULAY: That is all right. On the other hand, while I admit that such a thing is possible, and while I admit that in New Zealand they have accomplished it, I do not think the chance of such a thing occurring in Canada is very great. I would rather expect that we would have another Intercolonial or something of that kind. Then what I would expect to be the result of the establishment of such a department would be that instead of having things managed economically, we would have lots of Government estimates made, and instead of going out and picking up mortgages and looking after a good rate of interest, the money would go chiefly into Government bonds with a low rate of interest, and a difference of one per cent. in the earning power of an insurance company is as good as 160 per cent. saved on the first year's premium. So that a State life insurance department has no terrors for me at all, and on the other hand I think it would be something to point to and say "See how much

better we can do for you than the Government insurance department." And on the other hand, if it were conducted on different lines, without pushing for business like an insurance company, it would follow the English insurance department and be a failure just as that department is. I have the figures here. In the department in 1900 they issued 677 policies for £35,000, an average of £52 apiece. In 1901 they issued 920 policies, for £44,000. That means \$220,000 of new insurance written by the great British Government. I have not the more recent figures.

MR. KENT: They do not give any rebates?

MR. MACAULAY: No, and they charge higher premiums than the regular companies charge.

MR. SHEPLEY: Were their policies limited in amount?

JUDGE MAC TAVISH: Yes, to a very small amount.

MR. SHEPLEY: There are constitutional limitations?

MR. MACAULAY: I do not know about that at all. The total amount they had insured in 1901, 12,546 policies, for £748,000, three and a half million dollars. The great British Government has then an annual premium income of \$110,000, and its funds invested in consols yielding £2 10s. 5d. If our Government chose to establish a State insurance department we have no objection in the world.

JUDGE MAC TAVISH: You are unanimous on that?

MR. MACAULAY: Yes.

MR. SANDERSON: We all think it possible that a State life insurance might succeed and might be a measure of success, whether it would meet with the same measure of success as it has in New Zealand, I think, as Mr. Macaulay says, is extremely doubtful. Without agents and without members which a regular life company has, the department could not be a success. I do not know that it has been mentioned—I have not seen it mentioned any place yet—that there is within the eaves of this building a sort of State insurance department. Thirteen years ago there was started by the Dominion Government a form of life insurance for the civil servants. What has been the result? I have the official record. There has actually been received into that class 176 people in thirteen years. Eleven of them are not in it now. There are only 165 left after thirteen years of State life insurance. That

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is the result of the insurance department run without agents and without regular business methods. That is on a par with the British scheme. I should like to point out also that in New Zealand that department does not only the ordinary with profit policy, but a very large volume of investment policies. I think more than fifty per cent. of it is endowment insurance, and I think included in their business is a feature of tontine insurance.

MR. HELLMUTH: Do you know what the result is of the insurance that you speak of—what rates the civil servants pay?

MR. SANDERSON: I have them right here.

MR. HELLMUTH: What are they supposed to do?

MR. SANDERSON: They are based on H.M. six per cent. rate of interest, and ordinary life insurance agents are working in this building and sell their policies at rates materially higher to civil servants in this building.

MR. HELLMUTH: I want to know what are the results. Have they paid any policies?

MR. SANDERSON: Of these eleven persons who are not now members, seven have died, one forfeited his policy, one surrendered, one discontinued and one lapsed.

MR. HELLMUTH: How many were paid?

JUDGE MAC TAVISH: Three were paid.

MR. SANDERSON: The remaining 165 are still in force.

MR. HELLMUTH: What did they get out of it?

MR. SANDERSON: I do not know.

MR. HELLMUTH: Did they get out of it as much as they would if they had had policies in other companies?

MR. SANDERSON: They are non-profit policies.

MR. HELLMUTH: Do you advocate non-profit policies if the State takes up insurance?

MR. SANDERSON: The New Zealand—

MR. HELLMUTH: But do you advocate the State doing a profit assuring policy or a non-profit assuring policy?

MR. SANDERSON: I would give them the choice.

MR. HELLMUTH: You would have them doing both?

MR. SANDERSON: Yes.

MR. PAPPS: I should like to say one or two words in regard to this matter. I was prepared to give some information in Toronto. I am sorry I am not able to have the particulars here, but the opening remarks of Mr. Bradshaw make it necessary that life agents present should say whether they agree with his remarks. Mr. Junkin was not in the room when the remarks were made, and I may say that we have not the slightest objection to any State insurance scheme being started as far as we are concerned. I should just like to say this; that I, personally, would not like to recommend the starting of such a scheme. I would consider that if such a scheme was a failure I should not like to assume the responsibility for the suggestion, and I would not like the Canadian Government to start the scheme unless it was intended to carry it through to a successful issue. Mr. Hellmuth asked one question. I am sorry I cannot answer it exactly, but I do remember this: I took the trouble to look into the relative persistency of the business issued by the New Zealand State Department and the business of the other company, the Australian Mutual Provident, and although the Australian Mutual Provident started business several years before the New Zealand Department, at the date at which I have the last returns, I think 1903, the percentage of business still in force in the Australian Mutual Provident was still quite considerably more than the same percentage of business issued by the department, showing a greater persistency in the company, although one would imagine that with the Government's guarantee, and so on, that there would be a greater persistency in the State insurance scheme. I must say that I was surprised to observe these results. Another thing I might mention is this. I think Mr. Bradshaw mentioned that the bonus recently declared was \$10 a thousand. I think Mr. Bradshaw will state that that was in addition to the sum insured. A bonus addition is well known to life insurance men, but it may not be clear to everyone in that respect.

MR. McDOUGALL: I have no particular views to express. I listened very carefully to Mr. Bradshaw's remarks, and I have no hesitation

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whatever in expressing my opinion that if a company were started by the Government precisely on those lines, it would be a first class thing for insurance in this country. If a State department were started here and carried on as in the old country, I think it would be perfectly harmless.

MR. SHEPLEY: I assume we will not discuss that subject any further at the present time. Of course your Honours will understand that we are doing this so as to get this information while the gentlemen are present, and the subject itself will have to receive more consideration.

JUDGE MAC TAVISH: Oh yes, later on.

MR. SHEPLEY: Have you prepared yourselves upon the subject that I mentioned first?

MR. MACAULAY: While this matter was not discussed at the Managers' Association at all, I might just point out that the provisions of the Armstrong law are that no restriction at all shall be placed upon the amount of business which shall be written by a company whose insurance in force is under fifty millions. That means that no restrictions would apply to the great bulk of Canadian companies.

MR. SHEPLEY: Discuss it with regard to our own conditions.

MR. MACAULAY: The provisions of the Armstrong law that where the business written is between fifty million and a hundred million there is a restriction limiting it to thirty per cent. of the amount in force. But these figures are away ahead of what any Canadian company is doing in proportion to its business, so that the restriction in the Armstrong law, if they are applied here, would not touch any company at all, and would be perfectly harmless, but we see no reason for burdening the Statute Book with things when the most you can say for them is that they do not apply and do not do any harm.

MR. SHEPLEY: I ask for a discussion having regard to our own conditions. What do the members of the Association think of attempting to limit the ratio of expense, or attempting to limit the expense, and as incident to that, limiting the volume of new business to be written, in which volume you incur all this tremendous expense, which is crippling the company so?

MR. MACAULAY: What I have

been saying is solely about the limitation of the volume of new business, and the point I would like to make is that the Canadian companies have kept well within the basis the Armstrong commission thought reasonable. If you wish to discuss the limitation of expenses, I can talk for quite a while on that.

MR. SHEPLEY: Don't talk too long, because there are other subjects. Give it is briefly as you can.

MR. MACAULAY: That is a matter we have discussed as an Association to a certain extent, and we are all unanimous in believing that such a limitation would be worse than the disease. We are unanimous on that point. We agree in deploring the fact that insurance costs so much, but when it comes to proposing a limitation of expense by the Government, we see so many evils resulting from that that we think the remedy is worse than the disease. Personally I have given a great deal of consideration to it, and I can see nothing in the way of a remedy that would not be very objectionable. If you wish to discuss the actual merits of the Armstrong scheme I can do so, but I do not wish to do so unless you desire it.

JUDGE MAC TAVISH: We understand the opinion of the Association is unanimous that there should be no limitation on the expense of insurance?

MR. MACAULAY: We are all agreed that we can think of no basis of limitation which would not be a great evil in itself. I am perfectly prepared to explain. For instance the Armstrong limitation of expense is, first of all, glaringly unfair as between companies. I have it all arranged here—

MR. SHEPLEY: You say having regard to conditions here the Armstrong legislation would not touch your companies at all?

MR. MACAULAY: No.

MR. SHEPLEY: I do not think we need discuss it in that way. What I was rather concerned in doing was discussing a similar question with regard to our conditions here.

MR. MACAULAY: You have misunderstood me. What I have said is that the limitations of the volume of new business would not touch us in Canada, but the limitation of the question of expense would touch us very seriously, and I have given consideration to that. The only plan of limiting expenses that has ever been suggested, as to how that would affect us—

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MR. SHEPLEY: I should have thought that you gentlemen, having regard to the importance of the question, would try to find a remedy for this.

MR. MACAULAY: I believe things are righting themselves, and in any case I think things are not as bad as some persons or papers have made believe. Things are not worse in Canada than in Great Britain, or not to any appreciable extent.

MR. SHEPLEY: You have given us a computation, or a table, in connection with the question of initial expense and the method of overcoming that, or dealing with that on the question of reserve. Does the plan you have outlined to us lend itself to the limitation of expense? Does it accommodate itself to a limitation of expenses?

MR. MACAULAY: Not on any fair basis, and we are unanimous in believing that greater evils would follow any kind of such restrictive legislation that can be suggested than the evils which at present exist.

MR. SHEPLEY: Then to get it in a nutshell, assuming the Commission would desire to recommend legislation which would limit you in your expense, would your outlined plan here have to be reconsidered?

MR. MACAULAY: No.

MR. SHEPLEY: Or would it accommodate itself to legislation of that sort?

MR. MACAULAY: It could, but if there is any serious thought, the question is important enough for us to discuss it fully, and anything that I would say now, I could discuss it from that standpoint, because this suggestion which we made would fit in just as well as the New York suggestion for example, but at the same time I think if your Honours just knew what there is to be said on this question of limiting expense you would never think of such a thing. I have everything in a concise form, and I would be as rapid as possible if you wish me to. To my mind the arguments against it are overwhelming, and it is just a question whether you wish to give me fifteen or twenty minutes to state the facts.

MR. SHEPLEY: I am a little afraid we can hardly afford the time for that in view of the other matters. I know that you are very zealous in all these matters, but you might address me a communication on the subject.

MR. MACAULAY: You have a memo. already on that.

MR. SHEPLEY: Then it will receive the fullest consideration.

MR. MACAULAY: And I will have duplicate copies made for the Commission.

MR. McDOUGALD: May I say, your Honours—and I speak solely for myself—that the Commission has no more important matter before them, nor can they have a more important matter to deal with, than this question of expense. The question of the limitation of expenses far transcends in importance the question of rebate, and indeed any other question that this Royal Commission could consider. I feel that I should be recreant to my trust if I allowed the occasion to pass without specifically pointing to that specific feature of Canadian insurance business and of not alone Canadian business, but every other foreign company of every class operating in Canada. It is impossible to conduct business in this country at the same rate of expenses as it is conducted in England. Moreover to some extent it is not necessary, because there is an offset in other directions, and particularly in the improved rate of interest as compared with the two countries. The question of the limitation of expenses is certainly extremely difficult, and to present a cut and dried remedy is practically impossible. I am not in accord with Mr. Macaulay when he says the remedy will be worse than the disease, but at the same time the remedy is extremely difficult to suggest. The only remedy that occurred to me, or rather what in time might prove to be a remedy, is in the direction of publicity, and a gain and loss exhibit, or a portion of it at least, would be a help, inasmuch as it would show what the expense was in relation to the loadings, and a limitation might be put upon expenses, as is voluntarily and practically done by all the leading British companies, by nine out of ten of them, that would be well within the mark. The publication of the figures affects a great deal, but the remedy I think might partially be obtained by limiting the total expenses at least within the total loading provision for expenses. You have under that deduction arrangement from the reserve some easement for the companies. You have actually provided for these expenses, taking them, allowing the deduction from the reserve, and there is no necessity for shutting our eyes to the fact and there is no getting away from it. There are the facts, and I do not want to

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speak of anything but the facts. Then with regard to the expenses as apportioned between new and old, I think the actual facts should appear in print somewhere in the blue book or in the return so that the public can see exactly what they are, and the companies to my mind ought to benefit and will benefit by their publication. If every company doing business in the country were obliged to do that, there would be no discrimination as between the companies; that is to say no one company would suffer more than another. Then the fact of the expenses being divided between new and old would certainly tend towards the reduction of expense in the matter of obtaining business. That valuation basis and the deduction for reserve, it seems to me, would be quite in harmony with those views.

MR. MACAULAY: Just to put myself right, when I said we were unanimous, this question certainly came up before the Association. I do not know whether Mr. McDougald was there or not. He could not have been there, but at any rate every person agreed that there was no objection to it; so that I want to put myself right on that point. If the gain and loss exhibit is such a good thing as Mr. McDougald appears to think, I think it is desirable that the British companies should comply with that requirement. In regard to the claim that the expenses should keep within the loading, I cannot do better than quote what you already have, Mr. King's statement. He is very strongly opposed to such a restriction, and he deals with it at great length, and he points out that the New Zealand Government spends more than its loading, and that is a first class institution.

MR. PAPPS: It might be well to point out that the aim of British companies is to partially ignore the manner in which the expenses are incurred, and pay profits during the early years which are not actually earned, and even it up in the long run. That makes it necessary to preserve considerable uniformity in the volume of new business each year. Now, in this country things are different from that. I might say that the question of expenses is just as important to the management and to the share-holders as to the policy holders. Every person is equally interested in that one particular point, and I do not think you will find a life insurance manager anywhere who will not gladly do anything to help to get

the business in at a cheaper rate. But the point is this; if we measure the expenses by the total loading we have to consider two or three points. One point is that young companies cannot get their business in so that the total expenses will be less than the total loadings, owing to the fact that a very large percentage of their business is new business. In the same way an old company rapidly pushing for business may have difficulty in complying with that. They may just succeed whereas another company writing a very much similar volume of new business will have no difficulty whatever. At the same time there is this question; if that company is able to write double the volume of new business without increasing the rate of expense at which that business is obtained, is there any reason why that company should not take all the business it can at that rate of expense, provided only that in keeping track of accounts the expense attaching to the securing of that new business should go solely against those new classes. So that it really resolves itself into this, if the company is getting its business at a proper rate, it does not matter how much new business it should take, provided they have sufficient funds to stand against the temporary impairment of the reserve.

MR. MACAULAY: I entirely agree with that.

MR. PAPPS: We must not overlook the fact that some companies have a tendency, following the British companies, to materially strengthen the reserve as time goes on, and the effect of that is to increase the net premium, which decreases the loading; so that a company holding very high reserve will have very little loading. Its interest earned may be placed away above what is required. That is an argument against a gain and loss exhibit. It is used for publication in New York State, and most unfair and misleading comparisons are made in that way. A gain and loss exhibit is a splendid exhibit for the manager of the company, and if improper uses should be avoided, I consider that it is an exhibit that could be gotten out by the management of the company for their own information.

MR. McDOUGALD: It would not be, it seems to me, a fair thing to make such a change of immediate force. It would be too disturbing an element altogether as a whole, but

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the change might be brought about in a gradual manner, spreading over a number of years, perhaps five or even ten years. Mr. Papps' suggestion amounts to throwing the expense upon the future.

MR. SHEPLEY: Have you any views on the subject Mr. Bradshaw?

MR. BRADSHAW: I have nothing to say.

MR. SHEPLEY: I do not know whether this will be very controversial and I ought to preface what I was going to say by the remark that in respect of the managers who have given evidence in the case of their various companies, they have gone into this pretty well in detail, and, if you will permit me, I will simply invite the expression of views of managers who have not been under examination in the course of this enquiry. Those who have been examined have all been asked about it; that is the question as to how the managers would view a law which required a more frequent distribution of profits, and practically put an end to the deferred dividend insurance. A good many gentlemen have already been heard upon this subject, but there are some who have not.

MR. MACAULAY: We have agreed upon recommendations upon that point.

MR. SHEPLEY: Have you?

MR. MACAULAY: Practically. I should say that all those present, while we thought it was desirable to try and get the views of some who are not with us, all those present have nothing to say against a certain recommendation.

MR. SHEPLEY: Who will present the recommendation to us?

MR. MACAULAY: Mr. Burke will present it.

MR. PAPPS: He has been detained.

JUDGE MacTAVISH: You are all agreed that there should be a more frequent distribution of profits. We will proceed with the next item.

MR. KENT: I suppose all the gentlemen have agreed that there should also be a larger distribution of profits?

MR. SHEPLEY: Then a subject which is quite different from that and which has engaged the attention of every manager who has been examined is this: What is the correct view from the standpoint of the best interests of Canadian insurers, of individual control of the finances of an insurance company? That is the

majority of the stock getting into the hands of one individual, or one set of individuals, with the result that practically there is a controlling of the operations of the company?

JUDGE MacTAVISH: Has that been discussed at your Association meetings?

MR. MACAULAY: At great length, but we have no united views upon it.

MR. SHEPLEY: I know the views of those who have been examined, because I have had the pleasure of hearing them, but if there are gentlemen who have views who have not been examined I should be glad to hear them.

MR. MACAULAY: If you like I will give a summary of the prevailing view.

MR. SHEPLEY: The prevailing view?

MR. MACAULAY: Well, the views of the members, just in a few words.

MR. SHEPLEY: Very well.

MR. MACAULAY: Mr. Richter introduced the subject of cumulative voting as a cure for evils in this regard; in other words, that every shareholder or policy holder, if the policy holders have a vote, should be allowed not merely to cast one vote for every vacancy on the board, but should be allowed to cumulate his votes and put them all for one vacancy. If there are five vacancies, instead of giving one vote for five members, to cumulate his vote and give them all to the one, so as to give representation to minorities. He felt strongly, and we all felt strongly, that if that should be introduced it would have to be in amendment to the Company Act. It should not apply to insurance companies alone, but to all companies, because it affected life insurance companies, not merely from the standpoint of the control of the life insurance companies, but from the standpoint of the large investments which a life insurance company makes in other companies. That is an important matter, and has been put down on the agenda for the next meeting of the life officers' association to discuss whether a recommendation in favour of cumulative voting in all companies should not form the subject of a memorial to Parliament or to the Government. No definite expression of opinion was given upon Mr. Richter's recommendation, although a good deal of sympathy was expressed for it and no adverse criticism, I

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think, of the general fairness of it. But it was felt it should not apply to a life insurance company unless it applied to all companies, and it was doubted whether Parliament would undertake to pass legislation that would be so radical in its nature and would affect all the banks and all the railway companies and corporations throughout the country. We felt that the matter was worthy of very serious consideration, but was altogether too big a subject for us to attempt to settle at the present time. I think that about expresses it.

MR. SHEPLEY: Has the Association considered, or are its members prepared to express a view, as to whether it is desirable by legislation to prevent beneficial dealings between officers and directors of companies on the one hand, and their own companies on the other?

MR. MACAULAY: That, too, was discussed at great length.

MR. SHEPLEY: Was there a consensus of opinion upon that?

MR. PAPPS: The difficulty was to outline anything which would apply to that without at the same time preventing the ordinary transactions.

MR. SHEPLEY: There has been a law in one province making such a provision for a considerable time. I do not know whether it has been more honoured in the breach than in the observance, but there has been such a provision, and some of the companies must have taken it into consideration, one would suppose.

MR. MACAULAY: On that point I do not think any of us present had any objection,—or at least no objection was expressed—to a clause prohibiting officers or directors borrowing from their companies, except out of the reserve upon their policies, and in fact there is already a clause of that kind in a large number of the companies. The Armstrong law, which prohibits any director or officer from having any financial interest in any loans, sale, purchase, or any financial transaction by his company, was felt to be entirely too ambiguous, and the words “directly” or “indirectly” come in. Supposing, for example, that a person should happen to be just a stockholder in some company, if the law was to be interpreted that the company shall not have dealings with any company in which any of its directors or officers have any interest, the more representative a board of directors the company might

have, the more effectually would it bar it out from the very best investments, and if the company had a very influential board of directors, connected with all the financial corporations of the country almost, that company by that very fact would be excluded from having any financial transactions with all the leading corporations of the country, if the Act as passed in New York were interpreted literally.

JUDGE MAC TAVISH: Or get a new board of directors.

MR. MACAULAY: Or it would have to get a new board of directors, and if it got men who had nothing to do with other financial corporations, that would mean that it would have to trust its destinies to men inexperienced in financial affairs, which would be a worse evil than the other. So that if the Armstrong law were extended to include shareholders and directors of other companies, it would be a terrible evil instead of a benefit, and we got so far as to have a clause in prohibiting it, like the Armstrong law, but excluding any case of a director or officer who was a minor shareholder of any company. but we did not finally agree upon that, and it dropped out.

MR. SHEPLEY: Then the Commissioners will probably have to deal with that question, if it is dealt with without any, may I say substantial assistance, from the members of the Association?

MR. BRADSHAW: I think the members of the Association are agreed that such a provision should be in the law, but they have experienced difficulty in framing one that would be suitable.

MR. MACAULAY: Exactly.

MR. BRADSHAW: The principle is absolutely believed in by the members of the Association.

MR. MACAULAY: The only difficulty is how to work it.

MR. SHEPLEY: I should gather rather negatively than affirmatively from a clause in your memorial that you are not prepared to recommend the absolute abolition of the use of all estimates for profits and so on?

MR. MACAULAY: I wish Mr. Burke were here, because I do not want to be speaking for the Association so much.

MR. SHEPLEY: Nobody has failed to recognize your uniform modesty.

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MR. MACAULAY: We had a great deal of discussion upon that and we were not unanimous, but this recommendation that was put in here was finally carried, that estimates should not be prohibited, that details as to how they should be arrived at should be insisted upon.

JUDGE MAC TAVISH: And published in the report of the Superintendent of Insurance?

MR. MACAULAY: We trusted that would conduce to the making of modest estimates.

MR. SHEPLEY: The only other question I desire to trouble you with is the question you wish deferred until your president arrived.

JUDGE MAC TAVISH: I suppose we have heard the views of all the companies in respect to the expediency of permitting policy holders to vote. I think we have heard that from the companies as we went along.

MR. SHEPLEY: Then with regard to the more frequent distribution of profits, including in that the dealing with the deferred dividend system of insurance, which we have heard is an innovation upon the general body of insurance practice, in comparatively recent years, I should like to have the views of the Association if we could get them.

MR. JUNKIN: Speaking for the Association, I might say that those of us who were present at the meeting arrived at a unanimous conclusion but we would prefer not presenting it until we had an opportunity of submitting it to those members who were not present, if there would yet be time to have another meeting and present it before the Commissioners make their report.

MR. SHEPLEY: How do you propose holding such a meeting?

MR. JUNKIN: The proposal was to hold it a week from next Thursday.

MR. SHEPLEY: I think it is quite within the bounds of possibility that the Commission will be fully occupied with other matters in the meantime, and we would be glad if you would be able to give us a unanimous view about that.

MR. JUNKIN: I was going to say if that date should be too late we might possibly hold a meeting sooner, but that date would suit us better.

MR. SHEPLEY: I think if we have your memorandum on that subject in the hands of the secretary on the Saturday of that week it would be sufficient.

MR. JUNKIN: Yes. It is the most important subject and we desire to consult every member.

MR. SHEPLEY: And Mr. Tilley very properly reminds me that if there are any other subjects upon which you would desire to memorialize the Commission on that date, assuming the time has not gone by and it has not been dealt with, we would like to hear from you.

MR. KENT: Are all the gentlemen present unanimous on the question of discontinuing the accepting of promissory notes for premiums instead of cash? That I imagine is one great reason for the lapse rate?

MR. JUNKIN: I might say that that is a question which has not been discussed at all up to date by the Association. If you desire we can discuss it at our next meeting.

JUDGE MAC TAVISH: And include your opinion on that, if you come to a unanimous opinion, in the memorial or the message that you will send to us.

MR. MACAULAY: We will remember that.

MR. SHEPLEY: Then I ought to perhaps say this: That your Honours will recollect that there was a substantive examination into the history and objects of the Manager's Association commenced at quite an early stage of the enquiry, and that was deferred in the midst of the examination of Mr. Bradshaw upon the history and objects of the Association. My colleague and myself have thought, subject to what your Honours may think, that we may very well dispense with any further examination upon that, in view of the very full assistance that the Association has been giving us, and the very full views they have given and are going to give with regard to the various questions of importance; so that the examination of Mr. Bradshaw may as a matter of form be declared closed.

JUDGE MAC TAVISH: There was a report that we were considering at the time Mr. Bradshaw was examined. It is an exhibit.

MR. TILLEY: A report of what?

JUDGE MAC TAVISH: The report of the Association.

MR. TILLEY: That is in the Minute Book.

JUDGE MAC TAVISH: It was in the Minute Book and I was anxious to know if it was an exhibit.

MR. TILLEY: It is part of the evidence, it is set out in the evidence.

MR. SHEPLEY: I would suggest that in view of the fact that we have

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some further matters which will have to be taken up as part of the public examination, but which are not yet ripe, but which will be in a few days, that there will be no announcement as to the next public sitting. You will make a formal announcement as to the adjournment till to-morrow and the private sitting will proceed, but it is better that I should be able to make some definite announcement as to the subject which we will take up in public next. There are some branches which your Honours know are to be completed, but there are several reasons, not including the reason which has embarrassed me so much this week, why we shall not be able to go on with them, but I hope in the course of a very few days we shall be able to proceed.

JUDGE MAC TAVISH: We will adjourn until to-morrow morning at ten thirty.

MR. SHEPLEY: And there will be an announcement as to the next public sitting.

JUDGE MAC TAVISH: As soon as we are able to make an announcement as to the public meeting we will do so.

MR. SHEPLEY: I am expecting some assistance in respect to some matters I want within three or four days and then we will be able to make the announcement.

The Commission adjourned at 9.30 p.m., November 13th, till 10.30 a.m., November 14th.

HUNDREDTH DAY.

MORNING SESSION.

Ottawa, Wednesday, 21st Nov., 1906.

MR. SHEPLEY: There are two or three matters that have not yet been formally, I think, put upon the record. In connection with the Confederation Life Company, since the examination into the affairs of that company were concluded, the counsel for that company has put into my hands certain papers upon various subjects dealt with in that inquiry prepared by the actuary of that company, Colonel Macdonald. I examined them at the time they were handed to me—examined them briefly—and they seem to be all matters of

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explanation which are perfectly proper to have upon the record, and I arranged with Mr. Nesbitt then that at the proper opportunity I would see that they were put upon the record. If it may be understood that that bundle of explanation will have an exhibit number, and will be considered as filed, then what the reporter has taken down will preserve the evidence which is being put upon the record (Exhibit 685). Another matter is in connection with the examination of the Foresters. Your Honours will remember that in the course of the inquiry there was a disclosure with respect to certain proceedings in Australia, the result of a Royal Commission that inquired into certain matters in Australia. The counsel who represented Mr. Montague, who was, of course, upon the surface at all events, very much concerned in the Report of that Commission, desired to have put upon the record what we would call, if it were a suit, the Pleadings, the defence prepared by Dr. Montague and submitted. That, I thought, was entirely proper and I undertook that that should be done. I think—indeed I know—that while it is not yet formally exhibited to the Commission, it is in the possession of the Secretary among other papers that we have in the matter of the Foresters, or if not in the immediate possession of the Secretary is immediately available. If that may also have an exhibit number, then this reference in the notes of the reporter will preserve the evidence of that. (Exhibit 686. Then, I want to put upon the record this circumstance. In the matter of the Mutual Reserve of New York, there is a certain subject which is properly the subject of inquiry here, and upon which we have been in communication with the company since the beginning of last July. During last week certain answers were sent here—and I thought they were rather belated—and they have been examined, and the results are not entirely satisfactory. I am in communication with the company, and I understand that we may be able to say something about it within the course of the next couple of days. I wanted, if your Honours will permit me, to have it upon the record that the matter would have been properly before your Honours this morning but for the fact of the negotiations which were going on with regard to these mat-

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ters. Then Mr. Tilley will take charge of what is to be presented this morning if your Honours will permit it.

JUDGE MAC TAVISH: Yes.

MR. TILLEY: In connection with the Woodmen of the World, we have had a computation made as to the reserve liability, as it might be called, on the policies or certificates issued by that Order, and, with your Honours' permission, I will call Mr. Grant to prove the result of that.

JUDGE MAC TAVISH: Is there anyone here representing the company?

MR. TILLEY: Mr. Hodgins, the Head Consul Commander of the Order, is present this morning.

MILTON D. GRANT, sworn. Examined by MR. TILLEY:

Q.—You have made a Report on the business of the Woodmen of the World? A.—Yes.

Q.—At the request of the Commission? A.—Yes, sir.

Q.—And is this the Report? A.—Yes. (Exhibit 687.)

Q.—The Report is as follows. (Reads Report.) Would you say what prompted you to adopt the National Fraternal Congress table by which to measure the liability on these policies? A.—The chief reason was that that table is employed very largely in fraternal valuations. It is based upon the experience of fraternal societies and is, therefore, presumed to be very applicable to the business of such orders. It is very widely employed indeed in that kind of work.

Q.—And would be more apt to be nearer the experience of the Order than, at any rate, the H.M. table; that is, the Government standard? A.—Quite so. If the business of a fraternal society is normal, its mortality should average about 98 or 100, or possibly 102, per cent. of the National Fraternal Table.

Q.—It should be reasonably close to the National Fraternal Table? A.—Yes. Of course, if there are special features in any Order's business, it will not do so.

Q.—You selected that table as the one that you thought would give the fairest result, taking it altogether? A.—Well, I will say that I selected it because it would give a very fair result.

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Q.—Then why did you take a rate of 4 per cent.? A.—I chose that because, at the present time, while I have not examined the Order's investments closely, it should be able to earn 4 per cent. upon its funds.

Q.—Do you know, from what you have read of the evidence that has been put in, in connection with this company, or from the Exhibits that have been filed, whether that has been realized by the Order? A.—I think it has. I did not examine them recently, and I would not like to express myself with certainty.

Q.—At any rate you thought that that would be a fair rate to take under all the circumstances? A.—Yes, its investments are chiefly in first mortgages on real estate, and it should easily be able to earn that upon its funds.

MR. LANGMUIR: Q.—No municipal securities? A.—There are some municipal securities.

Q.—But you think the average ought to be 4 any way? A.—I think so.

MR. TILLEY: Q.—If my memory serves me right there were some substantial deposits in banks? A.—Yes.

Q.—At 3 per cent? A.—Yes. Of course that would tend to reduce it.

Q.—I suppose that that would be the highest rate that could be used to bring out a proper result? A.—Safely, yes for the reason that you have to take into account a long period in the future. You are really considering the future life time of all present members, in assuming a rate of interest.

Q.—There is only one other matter that I wanted to ask you about in connection with this particular Report, and that is in connection with the statement that the computation is made upon the assumption that the rates will be dropped to and maintained at the level of adequacy. Will you explain a little more fully what you mean by that, and just what bearing it has on your computations? A.—Well, in the process of valuation I assume that the premium to be valued was the net premium according to the mortality table employed, and that therefore involved the assumption that the rates of the Order will be at least equal to those; if not, then I should have valued the actual premiums which the Order received, which, be-

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ing smaller than the net premium, would produce a larger deficiency.

Q.—Is it right to say that the premiums that the Order is now collecting from any of its members are lower than the net premium that is used in making the valuation? A.—It certainly is.

Q.—And as to members it has been shown in evidence that they are paying considerably below the highest tariff that is applied to members at the present time? A.—Yes.

Q.—You remember that? A.—Yes.

Q.—Had you valued the liability on the basis of the actual premiums that the Order is charging, how would the result have been affected? A.—It would be very much larger than brought out there.

Q.—The Order has the power to increase its rates? A.—Yes.

Q.—And by this Report you are fixing the deficiency at the present time, even if from this moment, the Order starts out and charges a proper rate? A.—And charges a proper rate, yes.

MR. TILLEY: Then that is all I propose asking Mr. Grant at the present time in connection with these rates. There are other matters that probably would be asked, except that Mr. Grant has made another computation, and probably the whole subject of fraternal insurance from this standpoint can be better and more fully discussed when that Report is filed, your Honors.

MR. LANGMUIR: Q.—Was the result effected by the taking in of that Company? There was a company amalgamated with the Woodmen. What was the effect? A.—Of course the lives that they reinsured, as I may say, are included in my valuation.

Q.—They are included in the valuation? A.—Yes, part of the company's business in force at the present time.

Q.—Were there medical certificates in the case of those who came in in that way? A.—I think not. They took them in bulk, provided a certain percentage of the total membership to be transferred was transferred. I think that was done and therefore, there would be no medical examination. That is my recollection of it.

MR. TILLEY: Q.—Mr. Geary suggests that I should ask you—and I am very glad that he made the suggestion—in fixing the rate for the Order, in order to bring the proper

premium return for the future, would or would it not be necessary to raise the rates of the old members? A.—Oh, certainly, certainly.

Q.—If the old members rates were not increased in order to bring in the proper return, then the new members would have to pay for the old members? A.—Quite so, and you would have a permanent source of deficiency there.

Q.—Either your new members must pay a great deal more than their proper premium rates, or else the new members must drop to the proper level? A.—Yes.

Q.—It has been shown, as was already pointed out this morning, that the order is charging two or three different standards of rates. It follows, I suppose, from what you have said, that you would regard that as improper? A.—Oh certainly.

Q.—When the rates are raised for new or old, they should be raised, you would say, for all alike? A.—Yes. Of course, there is the additional question there of making up the deficiency that has accrued up to the present time.

Q.—Even raising the rates of the old members to the level of the new members' rates leaves a deficiency for old members that must be made good? A.—Still leaves that deficiency that we refer to.

Q.—Still leaves the deficiency that you have shown in this report? A.—There or thereabouts.

MR. TILLEY: That is all that arises at the present time. Mr. Geary also suggests the question of the effect of the lapse, but I prefer leaving it, with your Honours' permission—and Mr. Geary approves of that—until the other report is put in, and the subject will be dealt with then more fully. Then your Honours will remember that when the Woodmen of the World were examined in Toronto, by some mistake Mr. Hodgins was not present, through some misunderstanding, and there are a few questions I desire to ask him.

JUDGE MacTAVISH: Yes.

CHARLES C. HODGINS, sworn.
Examined by MR. TILLEY:

Q.—What is your position in the Woodmen of the World? A.—The official title is Head Consul Commander.

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Q.—You are the chief officer of the Order, I suppose? A.—I suppose the position I occupy is much the same as president.

Q.—And how long have you occupied that position? A.—For about twelve years, I think; not quite since the inception of the Order, shortly after.

Q.—To what extent do you give any personal attention to the work of the Order? A.—For the last three years they have asked for my full time, and I have devoted largely my time, with a few exceptions.

Q.—What remuneration do you receive in that connection? A.—\$1,200 a year, and expenses when travelling.

Q.—Since you have been devoting your full time to the work of the Order, just state what your duties consist of. What work do you do for the Order? A.—I have charge of the organization department principally, visiting the different subordinate camps of the Order, and directing business.

Q.—Then you are an organizer, and also the one that maps out the policy of the Order, I suppose; you go about organizing camps? A.—No, I do not solicit any myself.

Q.—I thought that followed from what you said? A.—No.

Q.—You do travel about? A.—Yes.

Q.—Inspecting, so to speak? A.—Well, visiting.

Q.—And keeping up the interest in the local camps? A.—The organizers are under my instructions.

Q.—The organizers work under you? A.—Yes.

Q.—Do you visit the local camps? A.—Yes, if there are difficulties or troubles, upon invitation I visit them.

Q.—And you superintend the work of the organizers? A.—Yes.

Q.—And that covers your principal work; is that right? A.—Yes, that covers it.

Q.—Do you give any personal attention to the finances of the Order? A.—Well. I am on the committee on investment, looking after the investments.

Q.—Who are the other members of the committee? A.—The head clerk and the head banker.

Q.—Then do you meet at regular intervals? A.—Well, we have not adopted that course as yet—that is, of regular meetings for investment. Usually I am in the office one day a

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week, and the others will meet on that day.

Q.—Do you make any inspection from time to time of the financial methods of the head office? A.—That is you mean personally do I?

Q.—Yes, personally? A.—Well no, I cannot say that I do.

Q.—Are you conversant with the system of bookkeeping, for instance, adopted by the Order? A.—No.

Q.—Have you ever discussed the system with the auditors of the Order? A.—Well, I have since this Commission—

Q.—Had you before? A.—I do not remember particularly of discussing it before with the auditors.

Q.—Does the Order receive reports from the auditors? A.—Yes.

Q.—Or merely a certificate showing that the books have been examined and found to be in order? Has it ever received any full detailed report from the auditors as to the system employed, and so on? A.—Well, we receive some kind of a report about every meeting of the executive, and I frequently ask the auditor, very frequently ask the auditor, “Well, how do you find things this month?” and so on.

Q.—And what has been the nature of the reply? A.—Satisfactory.

MR. LANGMUIR: Q.—Have they ever suggested improvements in the bookkeeping to your knowledge? A.—Not to my recollection, the auditor has never suggested improvements, although in conversation with him a day or two ago he said he did desire it, he had desired it, but to my knowledge he had never suggested improvement to me.

MR. TILLEY: Q.—The conversation you refer to is one taking place since the Commission investigated the company? A.—Yes.

Q.—Then it is fair to say that since the affairs of the Order were before the Commission, you have concerned yourself a little more about the bookkeeping methods of the Order? A.—Yes, I questioned him in regard to how he made an audit, and the system of bookkeeping.

Q.—Did you get a satisfactory reply, or was it a reply that caused you to think that some changes could be made? A.—Well, his statement to me was that it was simply a matter between single and double entry bookkeeping, and I asked him how he

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made the audit, and he said he was sufficiently conversant. He even made the statement the other day that he could audit from the cash book. That was explicit enough for me.

Q.—That is he could make an audit just taking the cash book itself? A.—Yes, that he knew the business, he had personal knowledge of the business for such a length of time that he could do that.

Q.—Have any changes been decided on in the system of bookkeeping since the Commission investigated the affairs of the Order? A.—The matter was before the executive, but I cannot just say what the instructions were, but it is understood that the officers are endeavouring to conform to the requirements of the Commission.

Q.—Some changes are being made? A.—Yes.

Q.—But you probably are not in a position to give any detailed information of just what the changes are? A.—No, I cannot say just what the changes are.

Q.—Then you have heard read the report that has been made by Mr. Grant, and I think you read it through before it was presented to the Commission. Does that agree with your understanding as to the financial position of the Order? A.—Will you state the question again.

Q.—I am asking you whether your understanding of the financial position of the Order agrees with the report which Mr. Grant has made, which has been read here this morning? A.—Taking the National Fraternal Congress Table as a standard table, I would agree with that report.

Q.—Are you in a position to say whether the National Fraternal Congress Table is a proper table by which to measure the liability of your Order? A.—I am not in a position to say that.

Q.—Have you ever sought any advice on that point from actuaries or others? A.—Well, not from actuaries. We went before Mr. Howard Hunter, of the Insurance Department of the Province of Ontario, last fall probably, nearly a year ago, or less—

Q.—With what object did you go before him? A.—To endeavour to see if we could find or get an accurate

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idea of what tables should be adopted, what would be a permanent or satisfactory table of rates.

Q.—What was the result of that interview? A.—Well, do you mean what was the ultimate result?

Q.—No, I am asking you what you learned as the result of that interview? A.—Well, Mr. Hunter would advise us that what we called the Howard Hunter table would have been a satisfactory table or the Fraternal Congress.

Q.—Or the National Fraternal Congress table? A.—Yes.

Q.—Then your understanding was that there was a substantial deficiency in the Order? A.—Yes.

Q.—And that even if you adopted now proper rates for new members and adopted the same rates for all old members, there would still be that deficiency? A.—Well, I am under the impression, Mr. Tilley, that if we adopted the standard rate now, in time that deficiency would be wiped out.

Q.—That would indicate that the standard table that you would adopt must necessarily be a little higher than is required to pay the new members' claims; that would necessarily follow because there is this deficiency? A.—Well, it might, but I think in practice it would work out all right.

Q.—Following upon that what did the Order do towards putting the matter on a better basis? A.—Well, I can only speak from memory. I have not had any opportunity of refreshing my memory or looking into those matters. My recollection is that we appointed a committee to consider the question of general rates and report to the general meeting. You may have the information.

Q.—I am just getting your recollection now. Has any action been taken with regard to that yet? A.—The committee reported, but at the general meeting you see it was rejected.

Q.—Then what followed upon that? A.—Just simply that there was nothing done.

Q.—Is it possible in your opinion to carry a resolution in a fraternal organization such as yours, whereby the rates of old members shall be increased? A.—Is it possible?

Q.—Yes. Do you regard it as possible in your Order—put it that way—to pass a resolution which would in-

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crease the rates of the old members?
A.—I think it is possible.

Q.—How long have you been trying it? A.—The question I think has been put in some shape or other for probably the last three regular meetings, at least the three legislative meetings, two or three, I am not sure on that point, but the matter has come up at pretty nearly all our legislative meetings.

Q.—And you have not succeeded in raising the rates yet? A.—No, not since that.

Q.—Each member of your Order is now paying the rates that were in force at the time that he became a member? A.—Yes.

Q.—And notwithstanding several changes in rates that you have made from time to time, as Mr. Fitzgerald told us, the changes never applied to the old members? A.—No.

Q.—Well then, Mr. Hodgins, the by-law of the Order is expressed that the assessments mentioned in the by-law shall be payable by every member, as follows. You know that? A.—Yes.

Q.—The by-law that is now in force does not provide for lower assessments for old members than for new members, does it? A.—Well, is not that a legal point?

Q.—No. I just want to know how you justify, under the by-law that is now in force, charging one member a less rate than another member? A.—If the by-law reads that way, and I believe it does, that was not the understanding at any General Meeting.

Q.—There is no doubt about the wording of the by-law is there? A.—I don't know.

Q.—Is this the last copy? A.—I am not in a position to interpret the legal construction of a by-law.

Q.—I am not asking you just as to the wording; not what the construction is; the by-law in words says that every member shall pay those rates? A.—I believe that is right, yes.

Q.—But you say that the understanding when the by-law was passed was that the rates for old members would not be increased? A.—Yes.

Q.—And your Order has been acting on the understanding that then existed rather than possibly the strict reading of the by-law. Is that fair to say? A.—Yes, I think that is right.

Q.—Now, has that subject been discussed by the Executive? A.—No, I think not.

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Q.—I am asking you whether the effect of the by-law has been discussed? A.—I have not a very clear idea of whether it has been discussed by the Executive or not.

Q.—Complaint has been made in that regard? A.—Yes, that is right. Complaint has been made.

Q.—Complaint has been made on behalf of some members of the Order? A.—Yes, during the last year. Since our last Annual Meeting.

Q.—What action has been taken on that complaint? A.—No action has been taken towards levying or raising the assessments on the old members.

Q.—Has any formal action been taken in the matter at all? A.—No, I don't think so.

Q.—Have you anything in mind that you propose to do in regard to that? A.—No.

Q.—Or do you just propose to disregard the complaint and not change the by-law and still charge different rates to different members? A.—I think I should follow the course that we have been pursuing in the past.

Q.—In your opinion should the rates for old members be increased in your Order? A.—Yes.

Q.—In your opinion should it be possible for the Order to raise the rates for new members without making the rates for old members uniform with the rates for new members? A.—I think it would be better to level the rates up on all.

Q.—Do you think it should not be made obligatory on a fraternal society, when rates are raised for any class of members, that the same rates should be applicable to all members, old and new? A.—Yes, I think that would be proper.

Q.—You think that should be made obligatory? A.—Yes.

Q.—You think the method your Order in carrying on in that regard is not to be commended? A.—It is not the best in the interests of the Order.

Q.—Feeling as you do about that, Mr. Hodgins, and being the chief officer of your Order, what plan have you, if any, in your mind with a view to putting your Order on a proper footing? A.—Well, I cannot say just at present that I have any plan. We are or were awaiting the results of the finding of this Commission.

Q.—Do you want to be assisted by legislation in order to put the affairs of your Order on what you consider

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to be a proper basis? A.—I think that would be, probably, the nicest way and the easiest way to do it.

JUDGE MacTAVISH: And the surest? A.—Yes, and the surest way.

MR. TILLEY: Are you hoping that? A.—Yes, I may say that I was hoping that something would be done.

Q.—Hoping that you would be persuaded in that way. Then, just as a person who must have given a good deal of thought to it, state what you conceive to be the best possible legislation in that regard? A.—I am not sufficiently versed in the matter of legislation to give advice.

Q.—What legislation have you been hoping for? A.—That all Friendly Societies might be placed upon a basis where they would all have to do business upon the same rates upon a standard rate.

Q.—Then you think the rates should be made standard? A.—Yes.

Q.—And that no fraternal society should be permitted to charge less than some specified rate? A.—Yes, that it should not be left to themselves.

Q.—And the rate that is specified should be made the same for all members, old and new, a uniform rate throughout the Order? A.—A uniform rate. There would be a classification.

JUDGE MacTAVISH: A uniform rate in the same class? A.—Yes.

MR. TILLEY: But the law should go into effect for old and new members alike? A.—Yes. There is one feature in connection with the old members, that probably the rate should only start at the age at which they went into the Order. It would be a hardship on men, after they are in an Order for ten or fifteen years to start at the age then.

Q.—You would propose that the increase should take effect as of the age? A.—At which they went in.

Q.—When the member entered the Order. That would represent some deficiency, but you think that in view of the fact that these men were in the Order under different conditions, that that indulgence should be given them? A.—Yes.

Q.—Do you think there should be a requirement as to a reserve by Fraternal Societies? A.—I don't just understand.

Q.—Do you think it would be proper that Friendly Societies or Fraternal Societies should be required to keep a reserve fund on hand sufficient to meet the liabilities on their policies,

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in the same way but probably not by the same table, and so on that old line companies are required to keep a reserve? A.—Well, for a few years they would not be able to.

Q.—But gradually should it be brought to that standard? A.—Well, if they are charging a rate they should certainly have a reserve.

Q.—Unless it was improperly spent or spent for useless expenses. A.—It should not be.

MR. KENT: I suppose you realize, Mr. Hodgins, that your Association is drifting on the rocks? A.—Well, the tendency rather with Associations, I think, is to put themselves right. I think the drift has been rather in making the Associations more stable. If the present course is continued I might possibly think that is where we would be drifting, but the tendency, I think, with fraternal societies as a whole, has been rather to bring them up to a more permanent and better standard. They are something new.

Q.—But you have no plan, apparently, to overtake this \$850,000. You say you do not advise anything being done—you are something like the man drifting down the rapids of Niagara and throwing his blanket over his head as he gets near the Falls. If the rates are insufficient and if the members won't increase them, what is going to happen? A.—Well, I am under the impression, you know, that the Woodmen, as probably the youngest fraternal society doing business in Canada, will be guided and follow the other societies as they place themselves in a proper position.

Q.—But, supposing Parliament orders you to double your rates. What would be the result, think you? A.—We would have to do it. The result might be a large lapse in the society. If they lapsed we would be relieved of the liability, and if we went on doing business at standard rates we might do so much business that it would be all the better, safer.

Q.—Is it not a fact that your rates require to be doubled, for some time at least, in order to overtake that large liability? A.—Well, as I stated before, I am under the impression that if such a table as the National Fraternal Congress Table, or the Hunter Table, was adopted, that the liability would gradually work out. Of course I am not an actuary, but

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from observation of the matter I am under the impression that in Ontario and in Canada here, with careful selection and with prohibited classes, we might do business at less than that rate.

Q.—You really think you can overtake that deficit? A.—I do, in time.

Q.—By some providential method, without increasing the rates? A.—Without increasing, do you mean the present rate?

Q.—Yes. A.—Oh no, not without increasing the present rate.

Q.—Then you are satisfied that there has got to be some drastic change, only your members won't make it themselves? A.—Well, they have not been inclined to make it as yet, but I think they are being educated up to it.

Q.—So far they have refused to vote an increase of rate? A.—That is on the old members.

Q.—They are waiting till the storm bursts? A.—The new rates have been changed at different times.

MR. TILLEY: Of course, Mr. Hodgins, yours is not the only Fraternal Order that has low rates? A.—No.

Q.—You have been discussing the subject pretty freely from the general standpoint of Fraternal organization? A.—Yes.

Q.—And what you think ought to be done in the general law in regard to that? A.—Yes.

Q.—And I am sure we are obliged to you for discussing the matter in that way. Then, is there anything you would like to say to the Commission on the subject, that has not been brought out? If there is, we will be very glad to have you make any statements you would care to, on the subject of fraternal insurance. A.—I don't know that I have, Mr. Tilley, except that there are so few of the fraternal societies that are incorporated under the Dominion Act. There are only, I think, three, and the bulk of the societies that are doing business in competition with us are incorporated under Provincial Charter, Provincial Acts, and whether the finding of your Commission will reach those I don't know. Otherwise the raising of the rates with those that are under Dominion Incorporation, they would be subjected to the competition of the Societies doing business under Provincial authority at low rates.

Opinions of English Managers and Actuaries (read).

Q.—Are the companies that are incorporated under the Ontario Act not obliged to charge the Hunter rates? A.—No.

Q.—Then you would suggest, if possible, there should be some method devised whereby the law should be made applicable to Provincial as well as Dominion Societies? A.—Yes.

Q.—That would be a desirable thing, you think? A.—Yes, it would be a desirable thing if the Provinces and Dominion could come together.

Q.—Otherwise you say some Societies would still be charging lower rates and there would be a tendency among persons, whether wisely or not, to join those Societies rather than pay the higher rates? A.—Yes.

Q.—Then is there any other suggestion that you would like to make? A.—I don't think I have any other suggestion at present. Am I relieved now from any further attendance?

MR. TILLEY: Yes sir. Then, with your Honor's permission, I will read the expressions of opinion that Mr. Shepley obtained from a number of representatives of English companies during the adjournment in August; which, of course, to a great extent are submitted to your Honors just in the same way that the views of the Managers were submitted. Just their opinions, from which the recommendations that they would make can be followed out. The file will be Exhibit No. 668. It commences with a letter, dated London, 13th July, 1906. (Reads). That is the form of letter that was sent to the different British Insurance Companies doing business in Canada. Then follows a memorandum of proceedings had by Counsel to the Commission, in London, at the Hotel Metropole on Thursday, 19th July, 1906 (reads). All the Exhibits referred to are here in their order. I will read the clause as to investments from the first exhibit, referred to by Mr. G. H. Ryan. It is section 112 of the Memorandum of Articles of Association of the Pelican and British Insurance Company. (Reads). Exhibit 2 to the Memorandum is a rather longer matter and I shall not stop to read the whole of it because of time. I will read two pages from the pamphlet which, apparently, were referred to as dealing with this subject. The item is headed, "How our future liabilities are estimated." (Reads). Then, on Friday the 20th July, 1906, the documents marked 3 were received from Mr. Rolland. Then at the office

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of the London and Lancashire Insurance Company, Mr. Hopkins says (Reads). Before I go to the second point that Mr. Hopkins took up I will read clause 107 in the case of the London and Lancashire Insurance Company from Exhibit 4. It provides (reads). Then Mr. Hopkins continues, "with regard to rates of premium." (Reads). I have read to the end of the statement of that witness, and possibly, as it is a trifle hard to be both the examiner and the witness, perhaps your Honours will give me a little longer time during the adjournment?

JUDGE MAC TAVISH: We will adjourn then until a quarter past two.

(At 1 o'clock adjourned to 2.15.)

MR. TILLEY: The next officer of the British Company who was examined was Mr. Thistleton, at the office of the Commercial Union Insurance Company, 24 Cornhill, at 11 o'clock, apparently, on the 20th July, 1906. (Reads.) That ends the evidence or expressions of opinion that were taken in shorthand. One actuary who was not able to be present sent his opinions out in writing, and Mr. Geary has been kind enough to offer to read that.

MR. GEARY: I read the opinions of Douglas C. Frazer of the Royal Insurance Company. (Reads.)

MR. TILLEY: That completes the views of all the insurance experts who attended the meeting called by Mr. Shepley, except in the case of Mr. Rolland, who appeared for the Standard Life Insurance Company, being the Secretary for that Company, and your Honours will remember that Mr. Shepley mentioned in particular as one of the subjects to which he desired attention to be directed, the reasons that prompted the Standard Company to alter its basis of reserve, its basis of valuation, and thereby leave no available fund for distribution among policy holders. The answer to that question was made Exhibit 3 in the return that I have read, and consists of a letter from Mr. Rolland to Mr. Shepley of 19th July, 1906, which reads as follows: "In the course of the interview which I had the pleasure of having with you this forenoon" (reads letter signed J. H. W. Rolland, Secretary). Attached to the letter is the Annual Report of the Standard Life Assurance Company for 1905, and it is called the 15th quinquennial investiga-

tion. I will read the portion of that which refers to the re-valuation. It commences at page 10 and is headed "Investigation." It says, "as usual at the close of the quinquennium, the Board has made investigations" (reads). That completes all the evidence that was obtained from those insurance experts of the British Companies, and it completes all that we have to offer your Honours for today, but we will be prepared with other matters to-morrow.

(The Commission adjourned at 3.30 on November 21st to 10.30 November 22nd, 1906.)

ONE HUNDRED AND FIRST DAY.

MORNING SESSION.

Ottawa, November 22nd, 1906.

MR. TILLEY: We propose to close the examination of Mr. Fitzgerald, which was adjourned, and I have a lot of papers here which I propose to show him. The bulk of these papers are such as Mr. Shepley thought, on going over them, should be made part of the records for purposes of reference, without going through them in detail with Mr. Fitzgerald, but just to state briefly what brought them into existence and the importance of them.

JUDGE MAC TAVISH: Yes.

WILLIAM FITZGERALD, recalled:

MR. TILLEY: Q.—What does that bundle of papers comprise? A.—This is on the subject of rebating, and in that there is a bill which was introduced in the House of Commons in 1892, Bill No. 3 it was.

JUDGE MAC TAVISH: Q.—It did not become law? A.—It did not become law, no. It received the second reading and was referred to the Committee on Banking and Commerce, but was defeated in the Committee.

Q.—It did not go any farther? A.—It did not go any farther. That terminated it.

MR. LANGMUIR: Q.—What year was that? A.—1892.

MR. TILLEY: Q.—Then is it right to say that there had been no legislation against rebating by the Domin-

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ion at any time? A.—It is. There has been no legislation.

Q.—It has been urged strongly that there should be a penalty imposed on the agent giving a rebate and on the insurer who takes a rebate. Have you a view on that subject, Mr. Fitzgerald? A.—Well, it appears to me that whenever a rebate is given it would not be found out. If both the agent and the person who received the rebate, the man who gave it and the man who received the rebate, are both liable to a penalty there is not much likelihood of either of those men informing.

Q.—You think there would be more apt to be information about it if only one party could be punished? A.—If only one party could be punished; so that the other party would be at liberty, or might give information against the other.

Q.—You, of course, disapprove of rebates? A.—Oh, undoubtedly.

Q.—And the only question in your mind is as to the best form in which to put legislation, if legislation can be useful? A.—If it can be. That is all.

Q.—You agree, do you, that there should be some legislation on it? A.—I think there should be.

Q.—And it is just a matter of what is the more effective way to reach the desired result, whether by punishing both parties or only one? A.—Or one only.

Q.—And if only one was to be punished, I suppose you would select the agent? A.—I certainly would select the agent.

Q.—By reason of his knowledge? A.—By reason of his knowledge, and the policy holder, as a rule, cannot be expected to know and does not know.

Q.—And have you considered whether it would be wise to inflict any punishment on the company? A.—Well, suppose the penalty were inflicted on the company and they were subjected to a fine of \$1,000 or \$2,000, as I have heard mentioned, that would mean, I take it, that the fine would be paid out of the funds of the company, and in reality the policy holders of that company would pay the fine. I do not know that that is a desirable thing.

Q.—You think that if a fine is put on the company that it should be on the shareholders rather than on the policy holders? A.—Upon those who

are responsible for it; that would be upon the officers or shareholders.

Q.—Upon the management of the company? A.—Upon the management of the company. (Document Exhibit 689.)

Q.—Then would you tell me what this pile of correspondence comprises, exhibit 690? A.—This file relates to correspondence with regard to increased investment powers.

Q.—Relating to legislation of what year? A.—This correspondence is in 1898, but this legislation took place in 1899. Well, this runs to 1899.

Q.—Then I think I need not ask you anything more about that, because you explained the history of that legislation before, but this completes the file of correspondence on that subject? A.—Precisely, and this little book contains the letters of prominent financiers on interest rates, and that was made use of before the Committee.

Q.—That will all be very useful? A.—Yes.

Q.—What is the file marked exhibit 691? A.—This is subsequent correspondence commencing about the year 1901, right down to 1905, relating to a desire on the part of the company for wider investment powers.

Q.—Relating to the same subject practically as the last file? A.—Yes.

MR. LANGMUIR: Q.—Down to 1905? A.—Yes.

MR. TILLEY: Q.—What is this file, exhibit 692, consist of? A.—It relates to the Canadian Order of Foresters. The Canadian Order of Foresters applied for an Act of Incorporation in 1895. The Bill, as introduced, is shown here. The Bill, as it passed the Commons, is also shown here. There is a report of my own upon the subject of the Bill, and it was ultimately withdrawn. There was a condition imposed. I believe that was also in the Senate. I think it also passed the Commons, but in the Senate a condition was imposed and they withdrew the Bill.

Q.—What was the nature of the condition? A.—These are the sections that were added, "This Act and the Order hereby incorporated and the exercise of the powers hereby conferred, shall be subject to the provisions of the Insurance Act and any Act amending it." Then another section, "The Order shall out of the accumulated funds now on hand make with the Minister of Finance and Receiver General a deposit of \$50,000,

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and no license shall be issued to the Order until such deposit has been made." I do not recall why it was withdrawn, but the reason is stated here, "See Senate Hansard 1895." I do not remember what it was, but it was a condition they would not comply with and withdrew the Bill.

JUDGE MAC TAVISH: That Order is still working under Provincial charter? A.—Yes.

Q.—I understood that Order never did take out a Dominion license? A.—It never took out a Dominion license. It never again applied. It was unsuccessful on that occasion.

MR. TILLEY: Q.—What is this? A.—This is all the correspondence and reports relating to the legislation of 1894. (Exhibit 693.)

MR. LANGMUIR: How did they come under the Dominion?

MR. TILLEY: That is the Canadian Foresters, not the Independent Order of Foresters.

THE WITNESS: There are three Orders of Foresters.

Q.—There is the Ancient Order, the Canadian Order and the Independent Order? A.—Yes.

Q.—Then what is this file exhibit 694? A.—This has relation to the subject of child insurance. There is a copy of a notice given in the Senate, by the Honourable Mr. McClellan, on the 3rd of June, 1895, that he will direct the attention of the Senate to the crimes said to have been developed from the practice of effecting insurance on the lives of children who were incompetent to make contracts for such insurance, and will ask the Government if they propose to take any measure to restrict or prevent such practices. Then the answer is given. That is what this contains.

Q.—Then exhibit 695, is a file relating to locomotive engineers, is it? A.—It is, yes. It is a copy of a Bill intituled "An Act to authorize the Treasury Board to exempt certain societies from the operation of the Insurance Act," and it became law in the form in which it is here, assented to July 22nd, 1895.

Q.—Attached to that is an opinion, is it not— A.—This is my report upon the matter.

Q.—Made by you? A.—Yes, and the Bill followed. It was eventually put through as I amended it.

Q.—That was in 1895?

JUDGE MAC TAVISH: Is that a part of the Insurance Act of 1899? A.—No, it is not. It is a separate Act, but it will appear in the new consolidation.

MR. TILLEY: Then this is a file, exhibit 696, relating to fire underwriters? A.—This relates to fire underwriters. The question that came up was as to the right of the provinces to license companies to do business in their provinces, other than their own provincial companies, and a letter was addressed to the Deputy Minister with regard to the question, and the opinion of the Minister of Justice as given by the Deputy is annexed to it. There is one paragraph I wish to refer to "The Minister thinks that a company other than a Manitoba company, which holds a Manitoba license must, before doing business, obtain a license under the Dominion Insurance Act also, and that a Manitoba license does not render a Dominion license unnecessary. The Minister of Justice is disposed to view the provisions of the Manitoba Insurance Act, requiring such companies to obtain such licenses as being an exercise of the taxing power of the Legislature, and as such not ultra vires of the legislature."

Q.—There is a Bill introduced to incorporate a company under the name of the British America Life Insurance Company. It need not be filed. It was withdrawn? A.—It was withdrawn.

Q.—What was the point there, and what action was taken regarding it? A.—It was amended as shown upon the draft here, in the form in which it would be necessary to amend it if it became law, and it struck out a couple of clauses and added two or three others that were more stringent. However, the Bill was withdrawn. It did not go through. That was in 1892. (Exhibit 697.)

Q.—Then exhibit 698 is the bill as it was introduced for the incorporation of the Monarch Life? A.—Yes.

Q.—And it shows your amendment? A.—It shows my amendments, and as amended in this form the Bill ultimately went through.

MR. LANGMUIR: Q.—What year was that? A.—1904.

MR. TILLEY: Q.—Then here is a file as to returns from British companies, I think? A.—Yes.

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Q.—That is exhibit 699? A.—This is the Act of 1895.

Q.—What was the nature of that legislation? A.—The nature of that legislation was this: Under the Act of 1895 all the returns of Canadian business and of general business of the company was required to be filed in the office on the 1st of March, not later than the 1st of March in each year. The British companies found it impossible to comply with that regulation as far as their general business was concerned, and they sent in a memorial signed, I think, by all the British companies doing business in Canada, and that was the origin of the Act of 1895, under which the time for filing the statement of general business was extended. As it now reads, no statement of general business is required to be filed earlier than the 1st day of June, and not later than the 30th June. The bulk of them are filed before the 1st of June, but there are three or four, I think, that are never received until about the 30th of June, sometimes one or two days over, in which case they have to pay a fine of \$10 a day.

Q.—Would it be possible in any way to have the British companies send in returns made up to some other date in the year rather than the 31st December? A.—Well no, because the 31st December is their closing day.

Q.—That is the end of their fiscal year? A.—That is the end of their fiscal year.

Q.—And that applies to all? A.—To all, but there is one exception, where it is the 15th November.

Q.—Which company is that? A.—The North British and Mercantile.

Q.—When you say that by reason of the large foreign business that these British companies carry on, it is an impossibility that they should get their returns in to you at any earlier date than you have provided? A.—Yes, that is the way in which they put it, and it seems to be well founded. They are doing business all over the world, in all parts of the world, and they cannot get it in any sooner. Their idea is to have an accurate statement, not an estimation, but when they make up the returns as of the 31st of December, although it comes some months later, it is an accurate statement of the business of the company as of that date.

Q.—Then exhibit 700 is a Bill to incorporate the Supreme Grand Lodge of the Sons of England Benefit Society? A.—Yes.

Q.—Would you state what point or what question arose in connection with that legislation and what was ultimately done? A.—This gives the Bill as introduced. The Bill as it passed the Commons, I think, is also given and then it was withdrawn in the Senate. It was a Bill introduced in the same year that the Ancient Order of Foresters received their Act of incorporation. It was of the same nature. The Sons of England sought to obtain a charter in almost the precise terms of the Independent Order of Foresters, in 1899 I think it was. Although opposed in the Commons, still it passed the Commons notwithstanding, and it went to the Senate, and there the same opposition was made to it and the same objection made as had been made in the Commons, but the opposition was successful in the Senate and the Bill was rejected by the Banking and Commerce Committee and it was thereupon withdrawn, and it went no further.

Q.—The objection was to taking the same sort of legislation in that regard that the Ancient Order of Foresters had accepted? A.—Yes. This is the note of it, "In the Senate this Bill received its first and second readings and was referred to the Banking and Commerce Committee. In the Committee a motion to amend it so as to make it harmonize with Bill 113, relating to the subsidiary high court of the Ancient Order of Foresters, was carried, and the promoters thereupon asked leave to withdraw it." And it gives the page of the journals of the Senate where all that is found.

Q.—Then exhibit 701 is the file of correspondence which I think was discussed with you already, relating to the Independent Order of Foresters? A.—Yes.

Q.—And you have just put it in for the purposes of identification. You have discussed in your evidence quite fully, I think, the matters that are dealt with in that correspondence have you not, or did you? A.—I do not think so. I do not think it was considered at that stage. It was fairly gone into though when the company was being examined.

Q.—And it was not put on the record at that time, waiting until after

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the company should be examined? A.—Yes.

Q.—Then exhibit 702 is a question asked by you of the Justice Department, with the opinion— A.—With the opinion given.

Q.—What was the enquiry shortly that you made? A.—Well, it arose in the case of the Burglar Guarantee Company. Under their charter they were required to call up a certain amount of stock I think each year. On one of these occasions the terms of the charter had not been complied with. They did not call up the stock, and the question was asked if that was a sufficient reason for not renewing the company's license. The Minister of Justice, Sir John Thompson, at that time, gave the opinion that that did not form any reason why the license should not be renewed, and these words appear, "The Minister thinks that the license should not be cancelled or suspended or a renewal thereof refused, unless the facts are such as to warrant such action under subsection 8 of section 25 of the Insurance Act," in other words, unless it was shown that the company was insolvent. That is the effect of it.

Q.—That is the view you acted upon since? A.—Yes.

Q.—That would be applicable to other cases that would arise? A.—Yes. It happened to be a burglary company, but it is equally applicable in the case of any other company.

MR. KENT: Q.—Then if a company was insolvent it could do anything that it chose, without forfeiting its right to get a license from year to year? A.—I believe that that is the interpretation of the Department of Justice put upon the Insurance Act as it stands.

Q.—Don't you think that that is a very great encouragement to companies to neglect to comply with the law? A.—I think probably it would be desirable to amend the law in that aspect. Subsection 8 of section 25 is the one I refer to. That is the old one.

Q.—Then this is a Bill that was introduced with respect to the Western Life Insurance Company? A.—The Western Life.

Q.—And it shows the amendment— A.—It shows the amendment that we made.

Q.—By you? A.—By me. They were made by me in the Bill, and it went through as amended under the

name of the Canadian West. This was in 1905. (Exhibit 703.)

Q.—Then exhibit 704 is the last Act that the North American Life obtained? A.—The last Act of the North American Life.

Q.—And attached to the Bill is the memorandum that you prepared on matters that you thought should be brought to the Minister's attention? A.—Yes, precisely.

Q.—Then something was said by Mr. Macdonald of the Confederation Life as to any action taken by you, was there not? A.—Yes.

Q.—And in consequence of that you produce a file of correspondence with him? A.—A file of correspondence.

Q.—Showing the attitude you took at that time regarding some of the real estate investments? A.—Yes. (Exhibit 705.)

Q.—And since the Monarch Life Insurance Company was examined you wrote the president as per the copy produced, and attached is the reply A.—Attached is the reply.

Q.—Would you just state, without reading the whole letter, the points that you drew the president's attention to? A.—Well, I might say that I could do it more quickly and accurately by reading it. (Witness reads letters, exhibit 706.) Before the letter was sent some change was made in the last paragraph which does not appear in this, which I will rectify.

Q.—Then you can read the answer? A.—Yes. (Reads answer.)

MR. HELLMUTH: Q.—From whom is that letter? A.—From Mr. Gordon, the president of the company.

MR. TILLEY: Q.—I thought it was proper to show the opinion the department had as to the changes that they are making.

MR. LANGMUIR: Q.—Is the office in Winnipeg?

MR. TILLEY: I think in Winnipeg.

WITNESS: The power of attorney on file in our office says Toronto.

Q.—But in fact— A.—I believe in fact it is in Winnipeg.

Q.—Whether it is legally in Winnipeg or not is another matter, but the operations are carried on from there? A.—Yes.

Q.—Have you the memorial that was handed to the Commission by the Life Officers' Association? A.—Yes. I have read it.

Q.—The Life Managers I mean? A.—Yes.

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Q.—They call themselves the Canadian Life Insurance Officers' Association. The first subject taken up by the Association is the question of publicity, giving more detailed information as to the conduct of the companies' business. Have you anything to say with regard to that? Any remark you would like to make? A.—Well, I do not understand what the Life Managers mean by more publicity. They do not specify what it is as far as I remember.

Q.—You mean you would like to see the form that the Life Officers recommend adopting? A.—Yes.

Q.—And then be able to form a more accurate opinion as to whether that was bringing out or tended to bring out the facts that should be disclosed? A.—Precisely.

Q.—The second clause related to non-forfeiture and surrender regulations, and recommended that they should be printed on the policy? A.—Either in or upon it. Undoubtedly that is correct.

Q.—That should be done? A.—That should be done.

Q.—Then the third section related to investment powers. What do you care to say regarding the clause as recommended by the Life Officers' Association? A.—The clause as recommended by the Life Officers' Association is not very widely different from a clause which is contained in a draft bill which was put in—

Q.—Already filed? A.—Some months ago. It would be on page 3 of that bill, called alternative clause B. The bonds of any company incorporated in Canada or elsewhere, which bonds are secured by a mortgage to trustees or otherwise upon real estate and other assets of such company, and which real estate and other assets are of a market value at least twenty-five per cent. in excess of the amount of bonds so secured thereon. The Life Managers struck out those words—that is “and which real estate and other assets are of a market value at least twenty-five per cent. in excess of the amount of bonds so secured thereon.” They want that omitted, and according to the way they put it, so long as they are secured by a mortgage upon real estate, it does not matter what the value of the real estate is.

Q.—Leaving that entirely to the judgment of the company? A.—Yes. Of course it would be assumed that

the directors who are making investments would enquire into that.

Q.—For real estate investment?

A.—Yes, and it says other assets as well. Well, I think the only difference between the clauses apart from that, is the fact that the clauses, as drawn in this bill, provide that in the case of stock the company must have been paying dividends for five years, and in the case of debentures, the interest on the debentures—that there shall have been no default for five years, and the officers' amendment reduces that to three years. These are the substantial differences between the two.

MR. LANGMUIR: It is three years in the stocks, but no restriction at all in the debentures.

MR. TILLEY: Yes, on the debentures there could be no default within the last three years. In the case of bonds secured by mortgage there is no limit.

WITNESS: If they are secured by mortgage there is no limitation, but debentures which are not secured by mortgage—there must have been no default for three years, or in this clause five years. That is the difference.

MR. LANGMUIR: They further provide that where debentures were issued, or bonds, and formed a first charge upon the assets of the company, and that company afterwards issued debentures or stock without being included in the mortgage, that these might be taken if interest had been paid for three years?

MR. TILLEY: Yes.

MR. LANGMUIR: Would you be in favour of that? That was not in the Bill as presented.

MR. TILLEY: Oh yes, debentures not secured by mortgage would be a proper investment if interest had been paid for the three years preceding as they now recommend, or five years under this Bill?

WITNESS: Yes.

Q.—Stocks if they had paid dividends for five years? A.—Yes, three or five years.

Q.—Five years under the Act as proposed some time ago, and three years as the recommendation is now made? A.—Yes.

Q.—But where the bonds are secured by mortgage, then there was no limitation at all recommended. Was there a limitation on bonds secured by mortgage under the Act that

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you have? A.—There was no limitation.

Q.—So that they were the same in that respect? A.—Except the limitation that was required that the assets should be twenty-five per cent. in excess of the amount of debentures.

Q.—The recommendation agrees with that draft bill in that there was no limitation as to location? A.—No limit whatever as to location.

Q.—Either inside of Canada or outside of Canada? A.—No—I think there was a limitation: “where the companies were doing business”—I think that was one of the limitations in it—no, I do not believe there is. I believe it is the same.

Q.—You, I think, expressed your views on that Act before, on the old Act. Is there anything you would like to say now about this clause as recommended by the Officers’ Association? A.—Well, of course, I would prefer the old clause; that is, the five years instead of the three; personally, I would have that preference because it would be just barely possible to pay dividend out of capital for two or three years—three years—and so make the stocks eligible for purchase of that class which said they paid dividends for three years. It is less likely to be the case if that was put at five years. Then, on the other hand, the life officers, of course—I do not know whether they discussed that question of three or five years, but their view about it is that it takes away all the profit and that it would prevent them from dealing in anything but old securities.

Q.—Which they regard as not being so profitable? A.—Not so profitable. There are less chances of large profit.

MR. LANGMUIR: Q.—From your information and great knowledge of this matter of investment in connection with the insurance fund, do you think there is any necessity for extending the scope of the Act as it now exists? A.—Well, of course, the extension that is now asked for is very wide, but it is wide as it now stands.

MR. LANGMUIR: I think so.

MR. WITNESS: It is very wide now as it stands, and this limits it in one direction. As it stands there is no limitation now upon the purchase of the stocks of certain named companies. They may be purchased, the day after the company is floated, whether they have paid a dividend or

not. That would be curtailed by the new clause. On the other hand, there are certain named securities mentioned in the Act, and, of course, that would be extended to any security of any kind. Well, I would rather not see so sweeping a Bill, but then comes the question, how are you going to limit it? How are you going to select those that are desirable and pass over others which may seem undesirable. It occurred to me that possibly the directors of a company, a good board of directors, are going to manage that better than anybody else, that it is impossible to fix it by legislation, and that something must be left to the board of directors, and a competent board of directors, it appears to me, will always make a safe investment, where an incompetent board will make poor investments, no matter how they are hedged round.

Q.—Then the fourth clause deals with the question of rebate, which you have already expressed your view upon? A.—Yes.

Q.—Then the fifth clause relates to a suitable gain and loss exhibit. Have you anything you would like to say with regard to that recommendation? It is suggested that British companies, members of the Association, might even retire from Canada rather than make this gain and loss exhibit each year. A.—Well, of course, the Life Officers’ Association, having some of the managers of these British companies, would be in a position to speak with a certain amount of authority upon that question, having knowledge upon it which I do not possess. I mean as to whether they would or would not be likely to retire from the field. Now there are two or three British companies that have licenses here to do life insurance and are doing it in conjunction with fire insurance, a license granted many years ago, such as the London, Liverpool and Globe, the North British and Commercial Union, these all have life insurance licenses, and as a rule they do not issue more than two or three or half a dozen policies a year. I am fairly well convinced that these companies would not likely continue. It would be, I take it, a misfortune if companies such as the Standard were compelled to withdraw, or the Pelican, but I think the Manager of the Pelican intimated that his company would probably not withdraw.

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Q.—You mean before the Commission? A.—Before the Commission.

Q.—Leaving out that feature of the matter what is your feeling regarding the propriety of having a gain and loss exhibit made each year?

A.—It would have its uses certainly. It would be advantageous to have it, but on the other hand if they were to be published every year there would be an enormous amount of labor on the company to prepare it, and if it were to be published it would take a great deal of labor to get it ready for the press. It would take a great deal of labor to get it through the press, and it would make a very much more bulky book, and probably the report would be out even later than it is now. These are the objections to it, and it is not easy to see where the balance lies, whether it would be desirable to have it on account of these objections, assuming that all the British companies would come into line. I take it it would not be desirable to have or to require such an exhibit as that from the Canadian companies and not require it from the British companies also. It would be a discrimination in favour of the foreign countries.

Q.—And the gain and loss exhibits would have to show the whole of the companies' business? A.—The whole business.

Q.—And could not be made to relate merely to the Canadian business? A.—I think it could not be so. It must show the whole business.

Q. Then there is added to that clause a recommendation that the Government form be revised. Then the sixth clause deals with the basis of computing the reserve liability on policies. What have you to say regarding the recommendations made by the managers in that clause? A.—Well, I am not prepared to dissent from that recommendation as it is contained there but I want to make a few observations with regard to it. You remember the Winding Up Act. Take section 108 of the Winding Up Act, and it reads this way: "Upon the insolvency of any such company"—this is speaking of life insurance companies—"and the making of a winding up order under this Act the policy holders in Canada shall be entitled to claim for the full net values of their several policies at the time of the winding up order, including bonus additions and profits accrued, less any amount previously advanced

by the company under security of the policy, and such claims shall rank with judgments obtained and claims matured on Canadian policies in the distribution of the assets." Now, that makes a policy holder in every case a creditor for the full net reserve value of his policy. Now, I take it if a company goes into insolvency or is put into insolvency, or desires to retire from business, in one view of the case, and in the policy holders view of the case, there ought to be funds there sufficient to pay every policy holder his full net reserve value. That can only be the case if there is no deduction made from the reserve. They must all be valued in that way, and so in one sense it appears to me that a company may fairly be regarded as insolvent unless it possesses the full reserve. On the other hand it is probably a very well known fact that any company whose business on the books is good business desiring to retire from business could have that business taken over at a considerably less amount than the full reserve value; that is to say that the good will of the business is worth something. Another company taking it over would be willing to pay what it would be necessary to pay to get that business on its books, and that would be a considerable sum. Now, as I understand it the reduction which is proposed to be made would not exceed the amount of commission which would be paid by another company and so I think that reduction may be regarded as justifiable.

Q. What you point out is that by the company's annual statement it might show its inability to pay all the policy holders the claims that the policy holders have under the section that you have read? A.—It might.

Q.—But on the other hand you point out that there is an asset not set out in the statement at all? A.—Not set out in the statement at all.

Q.—In the shape of good will? A.—Good will.

Q.—Or the cost of getting business? A.—Exactly.

Q.—That would be reported to a company by any other company buying its business? A.—Any other company buying its business. That is upon the assumption of course that the business of the company is good business.

Q.—And you think that is an act that could be received by the company or by the liquidator even after a

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winding up order was made? A.—Yes.

Q.—For the purpose of getting the reinsurance? A.—Yes, one of the duties of the liquidator is to endeavor to reinsure the business.

Q.—And the fact that a company has come to grief does not injure the chance of being able to insure very materially, you think? A.—Oh no, I do not think it.

Q.—The reputation of the company does not play much part in that?

A.—No. The reinsuring company would examine and see the nature of the business, and if it was good business they would be very glad to take it.

Q.—Just like taking a stock in trade? A.—Yes.

Q.—Is there anything else on that subject? A.—Oh, I do not think there is, Mr. Tilley.

Q.—Then the 7th clause deals with the publication of estimates. What does your experience lead you to say with regard to that recommendation? A.—I would prefer to have estimates done away with altogether. The publication of estimates would simply convert the Blue Book, which is issued from year to year, into a manual for the use of the agents, and it would be made use of for that purpose. It, of course, now may be made use of for such purposes, but as a rule it will be found that those estimates would be, probably, unfairly made use of by the agents of an opposing company. Each company would, of course, naturally make use of and rely upon the estimate in its own company and would point out the weakness of anything else. I think in addition to cumbering the book very much—of course that is no very great difficulty—but for these reasons I would not be greatly in favour of it, of publishing those estimates.

Q.—Do you think there would be any objection from the standpoint of giving some sort of approval to estimates by the Insurance Department? A.—Yes, there is no doubt about that.

Q.—That might be used by agents? A.—And it would be.

Q.—And the proposed insurers be given an unfair impression as to the effect of the Government scrutinizing the estimates? A.—There is no doubt about that. Anything that appeared in the Government Blue Book would be made use of by the agent. The agent would say, this is the estimate published in the Blue Book and ap-

parently approved of by the Government and for that reason you may rely upon it. I think that is very objectionable.

Q.—The same objection would hold good to any authority in the Superintendent to say to a company that it cannot use such and such an estimate even if it is printed in the Blue Book or not, that when the estimate is used and not repudiated by the Department, that that might to some extent sanction the propriety of the estimate? A.—Yes.

Q.—But on the other hand, persons who are going to take out insurance are always given estimates, whether they are issued by the Company or not? A.—They generally are.

Q.—And do you or not, think it better that the company should issue official estimates rather than the agents be allowed to make such wild guesses at the estimates as they think proper? A.—That would, undoubtedly, be better. Of course an official estimate issued by the company is of much greater value than the wild estimates that are often made by the agents. On the other hand there is just that question.

Q.—What is your idea when you said you would do away with estimates entirely? Would you think it a misdemeanor for an agent to say to an intending insurer what he might expect by way of profits? A.—No, I don't think I would go that far. I say I would like to see them done away with. A great deal of damage is done by them and a great many policyholders have been misled by estimates. All the same, if you made such a law I don't think that you could enforce it to prevent an agent giving an estimate. I think it would remain a dead letter. An agent will give an estimate any way.

Q.—If he does not give it by direct quotation he can give it indirectly and accomplish the same result? A.—Yes.

MR. KENT: That is, you could not make him speak the truth, by Act of Parliament? A.—No, you could not.

Q.—I don't think you could, either. A.—I entirely agree with that, Mr. Kent, that you cannot make a man honest by Act of Parliament.

Q.—I imagine there are some people who are never supposed to speak the truth. We may say auctioneers, principally, life insurance agents, and, perhaps, there is one of the pro-

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fessions that is in the category. A.—That is hard on you, Mr. Tilley.

MR. TILLEY: I cannot think what profession it would be, Mr. Kent, unless accountants?

MR. KENT: It could not be one of the learned professions.

MR. TILLEY: Then, Mr. Fitzgerald, what do you say as to clause 8; I suppose that is covered by the same answer? A.—The same answer.

Q.—That is the question of illustrating surplus allotted to policy holders. Then Section 9 recommends that the Annual Statement to the Government be submitted to the Board of Directors, and signed by their direction. Then follows a recommendation that it be subscribed to by a fellow or associate of the Institute of Actuaries of Great Britain, or the Faculty of Actuaries in Scotland or the Actuaries' Society in America, and further that it be signed by two members of an incorporated Society of Accountants, or rather two accountants, one of whom shall be a qualified member of an incorporated society of accountants. What do you say to that, Mr. Fitzgerald? There are three matters here; take the first; what do you say as to the advisability or necessity from your experience of having the Annual Statement presented to the directors and sanctioned by them, authorizing that it be made the Annual Statement of the company? A.—I imagine in practice, though submitted to the directors, whatever is done is done upon the report of the managing director. I do not think the directors, as a rule, would criticize that report.

Q.—I suppose that the idea is that it might lead to some criticism on their part if it had to come before them formally and be sanctioned by them? A.—That is the process, I understand, in Great Britain, that no statement is issued until it has been submitted to and approved by the directors. I cannot see any possible objection to it and if the companies really desire it I do not see any reason why it should not be adopted.

Q.—Then what do you say to having it subscribed to by an actuary? A.—There is no objection to that in the world, but I do not know that there is any great utility in it. I suppose the actuary who makes the valuation would be quite willing, on every occasion to put his name to it.

I should suppose so. Of course in making up these returns 'they' are usually sworn to, as you will remember, by the president or vice president on the one hand, and the secretary, actuary or manager, on the other hand. As a rule these persons who subscribe to it are not familiar with the details of the statement. They will get the reserve liability from the actuary. The amount of real estate they will get from the clerk in charge of that particular branch and his figures will always be taken. I do not know that any very much greater security will be given by what is mentioned here. It will make it necessary, however, that every company have an actuary, either permanently or one who will—

Q.—Be sufficiently conversant to make up the Annual Statement? A.—Yes, and that will be a distinct advantage, because there are some companies now that have no actuary and someone having no actuarial knowledge at all will prepare and value the policies.

Q.—So that you think that if the requirement would lead to the companies being compelled indirectly to keep actuaries in the office that that would be an improvement? A.—Certainly, it would be a distinct gain, I have no doubt.

Q.—And do you think it could be regarded by any company as a hardship? A.—No, not the requirement as it is here. It might be a hardship on a young company to be compelled to employ a permanent actuary, and because actuaries are, as a rule, tolerably high-priced men, but if it is only for an actuary to value the policies at the end of a year, then there could not be any objection to it on that ground.

Q.—Then the final recommendation is that there should be two auditors sign, one to be a qualified member of an incorporated society of accountants. What do you say about that? A.—It would go for greater security, greater accuracy in the statements I have no doubt.

Q.—And you think that an improvement? A.—I think so. Certainly from a Government standpoint there is no objection to it and as I said before, if the companies desire it, by all means let them have it.

Q.—Then Clause 10 relates to the amalgamation of companies and recommends that some simplified mode be provided by statute whereby two

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companies may amalgamate? A.—In the English Act of 1870 there are certain provisions with regard to the amalgamation of companies or one company taking over another, and it seems to me that it would be desirable to have in the law an enactment of that character. There could be no difficulty arise as to the jurisdiction of the Dominion Parliament to pass such an Act to deal with companies incorporated by the Dominion Parliament, companies under Legislative authority of that Parliament; but there might be a difficulty arise if a company was incorporated by a Provincial Legislature and another one incorporated by the Dominion. The question is whether the Dominion Parliament could deal with a case of that kind. As dealing with Dominion companies it would be, I think, a distinct advantage and there could not be any objection to its being done. I think I have the English clauses here; they are Sections 14 and 15 of the Act of 1870.

Q.—Then 11 simply relates to a trust company instead of two trustees, which, I suppose, is somewhat of a formal matter, merely? A.—That is contained in the draft bill, recommended by me some two or three years ago.

Q.—Quite so; I think you mentioned that before. Then paragraph 12 relates to provincial and municipal licenses and taxes and so on. Have you any remark that you care to make on that? A.—It is something quite beyond the control of the Dominion Parliament. The Provincial Governments levy what taxes they please and so do municipal corporations. I do not think there is anything which could be done by legislation in the Dominion Parliament that would be of any avail whatever.

Q.—I suppose that is not a subject that you have given much thought to, as it does not come under your jurisdiction in any way? A.—No, it does not in any form.

Q.—Then the 15th Clause recommends the incorporation of the Life Officers Association. Have you thought of the benefit or the detriment of that being done? A.—Well, before one could definitely express an opinion as to that, one would like to know what it is they propose; what authority they would be supposed to have; because the Life Officers' Association always has been regarded, since it was formed, as a consultative body. I certainly consult them on any occasion when any

question regarding the interests of the life companies comes up. I have invariably.

Q.—And your consulting them has not been influenced at all by the fact that they are not incorporated? A.—Not at all.

Q.—Or not a legal entity? A.—Not the slightest whatever. I do not know what they propose. If their idea or their proposition is that they should have any control over the management of the companies, I would not be prepared to assent to that.

Q.—I suppose the proposition is that they should have somewhat the same status with respect to insurance companies as the Bankers' Association has with regard to bankers. You remember that the Bankers' Association is incorporated under the Bank Act? A.—No, I think they have got distinct incorporation, a separate Bill.

Q.—Probably by a separate Bill? A.—And if this body is to be incorporated it should be by a separate Bill and not under the Insurance Act.

Q.—Having generally the objects that the Bankers' Association has in respect of banks, what would you say then to incorporation of the Officers' Association? A.—I would hardly like to express an opinion on it, until I saw in detail what they proposed.

Q.—Before expressing the view you would like to see a draft of the Bill that they propose? A.—Yes.

MR. LANGMUIR: Q.—If you will allow me to go back to the investment clause. It is claimed by some companies, perhaps two or three, that they have rights and privileges in excess of the Insurance Act, more particularly in respect to investments. Has the Department acknowledged generally that they have that right? A.—The correspondence with reference to that matter is in. Not to-day, but put in in March last. An opinion was obtained from the Department of Justice with regard to it. There are just two companies, the Canada Life and the Sun. The opinion of the Department of Justice has been communicated to both Companies. They do not entirely agree with that opinion, so it may be stated that the rights of these companies may be regarded as still unsettled.

MR. TILLEY: Then, Mr. Fitzgerald, you have also read over the memorial of the Life Underwriters. Many of the subjects dealt with by them have already been discussed under other headings in the Managers'

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remarks. For instance, rebating has been discussed. The chief subject dealt with by the Underwriters is that of commissions and the limitation of expenses. I would like to know what your view is with regard to that?

A.—I am not prepared to say that I have formed any decided opinions with reference to the limitation of expenses. That is what you mean?

Q.—Yes? A.—From the Agents' standpoint, if the commissions are cut down the agents say they cannot live. That might result in some of them having to leave the business and go at something else. Should that be done of course it would leave more for the agents that remained. A lower commission might, in that way, enable those who still followed the profession of agent, to live; but if the same number of agents remained who are now in the field and the commissions were cut in two, I do not know how they really will make a living. But that is apart altogether from the question as to whether it ought or ought not to be cut down. In one sense the commissions are entirely too much, looking at it from the policyholders point of view, and that is the view from which I prefer to look at it. There is no reason, if it can be avoided, why the expenses should be so great.

Q.—Then other than that general way you have nothing further that you want to say on that? A.—No, I have not.

Q.—Then we have dealt also with the matter of publicity. The memorial deals with deferred profits or dividends. What have you to say on that subject? A.—The question is whether there should be an annual accounting?

Q.—Yes, or quinquennial? A.—Yes, or later on. The interest of the company, in one way, has always got to be looked at. The making of an annual accounting would involve a great deal of labour and if the results of that accounting are to be communicated to the policyholders, it would create an enormous expense as well as preparing the notices giving the amount to each policyholder, and of course every expense comes out of the policyholders in one way or another. The question is whether the advantage would be sufficiently great to counterbalance that inordinate expense, for that it would be. Now, once in five years would strike me as desirable.

Q.—And should be required, do you think? A.—Yes, it should be required, but, so far as Canadian business

is concerned—how would that operate in the case of foreign companies? We would have, to get at the result, to account over their whole business, to take an account of their whole business.

Q.—You rather question the practicability of carrying that out in regard to a company that by its own law is not required to distribute at that time? A.—Yes.

Q.—Other than that feature of it, you regard it as being a desirable thing to require the profits to be allotted at least every five years? A.—It seems so to me; at least every five years.

Q.—What would you say as to the advisability of having standard policies? A.—In my view there would be no necessity for that. I don't think that anything is to be gained by having standard forms of policies. I fail to see why a company should not put in its contract, so long as the policy holder understands what it is, precisely what provisions they see fit.

MR. KENT: But the average policyholder does not understand what the conditions mean. A.—And, Mr. Kent, the average policyholder will not understand the standard policy.

Q.—That is true? A.—He will know just about as much about the one as he knows about the other. The average policyholder relies upon what the agent tells him, and it does not appear to me that there would be any advantage in having standard forms of policies.

MR. TILLEY: Then there is the recommendation as to publicity which you have already discussed, but the recommendation with regard to that ends with the clause as to the yearly report of the Superintendent of Insurance, or the Blue Book, not being delayed until September. What do you say about that? A.—Every effort is made every year to get that out as quickly as that can be done.

Q.—You have a letter on that subject to the King's printer? A.—A letter to the King's printer, Dr. Dawson, and the reply of the acting King's printer. Shall I read it?

Q.—You may. A.—(Reads letter dated November 10th.) To that the acting King's printer replied on the 14th November (reads). (Both letters filed as Exhibit 707.) That would be on the 15th November that some of the books were to be delivered and we did get some copies on the 15th November, but as yet the whole of them have not been received.

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Q.—Then is there any other matter that you desire to mention, Mr. Fitzgerald? A.—No, I don't think there is at present. As soon as I have seen what the proposition mentioned in 13 here really is—

Q.—That is to say if there are forms of returns submitted by the Managers' Association, or anything that shows more in detail what they have in view in their different recommendations, you would like to consider them? A.—Yes, I would like to consider them.

MR. TILLEY: Then I wish to state that the memorial that the Policyholders' Association promised to send in has not yet been received; otherwise I would have mentioned it to Mr. Fitzgerald. I state that as explaining why he has not been asked with regard to it.

MR. HELLMUTH: Q.—Touching first, Mr. Fitzgerald, on some of the points with which my learned friend, Mr. Tilley, has dealt, in reference to the Life Managers' memorial, and your comments thereon. I understood you to say that you did not know what the Managers meant by more publicity. Have you no idea what that suggestion is as to greater publicity? A.—Well, no, I cannot say that I have. I don't know what is in their minds.

Q.—Did you read their verbal statements as contained in the Report of the Commission, about the methods followed in England in regard to publication of every investment? A.—Of every investment?

Q.—Yes, showing in greater detail than is shown in our Reports the changes in investments and the character of investments? A.—Well, I must say that I have not read that.

Q.—Are you familiar with the method adopted by the English companies in the Board of Trade Returns and the other Reports which one may almost call governmental? A.—Yes, I have seen them.

Q.—Would you say there was the same amount of publicity in the reports published in our Blue Book as is contained in the English Board of Trade returns? A.—Well, in my judgment there would be greater in ours. In my judgment there is.

Q.—Then your view would be that there was not any greater publicity required from the English companies under the various returns that they make than you have here in Canada? A.—I certainly would think not.

Q.—That would be the result of your investigations? A.—Yes.

Q.—And you are, I suppose, aware that under the English methods the powers of investment by English companies are absolutely unlimited? A.—Well, almost unlimited. Occasionally by their own rules the companies limit them.

Q.—I am speaking so far as Government control is concerned. There is no control, you are aware, over the investment feature of the English companies? A.—There is not.

Q.—And did you follow at all the very recent investigation that took place before a Committee of the House of Lords in England as to the terms on which foreign companies should be admitted to do business in England? A.—I don't think I followed the proceedings minutely, but I think I know what the result was.

Q.—That is you did not follow the evidence as evidence? A.—No.

Q.—But you followed the result? A.—The result.

Q.—And did you observe that the English actuaries who gave evidence before that Committee urged that the foreign companies should be put on exactly the same footing as the English companies, no greater restriction. Did you notice that as one of the results? A.—I don't remember that.

Q.—That seemed to me to be about the most important result of that Committee, dealing with the comity that prevailed in regard to insurance matters. You do not remember that? A.—I do not. I may say that I did not follow it closely as it was going on. I think, as a matter of fact, I was absent at the time, even from Canada, when that was going on.

Q.—Then you cannot give us your opinion in regard to the conclusions that that Committee came to? A.—No, I cannot.

Q.—Perhaps you are aware that they declined to place any restrictions on the foreign companies in regard to deposits or class of investment beyond what already existed in regard to the English companies? A.—Yes, I think I became aware of that fact.

Q.—I suppose you are aware that the reserve is not a subject of legislation in England as it is here, that is a company can reserve on whatever rate it likes in England? A.—Yes, I am aware that there is no rule such as there is here.

Q.—That brings one to the question from whom did the limitation in the Act of 1899 emanate in the first place

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as to reserves. Our Act of 1899. Was that from you as an officer of this Government or did it emanate from the companies? A.—Well, I think I may say that it emanated from me, but it had been discussed, you know, for quite a length of time by the companies and had been spoken of by the companies.

Q.—So may we call you the father of the $3\frac{1}{2}$ and 3 per cent. limitation of 1899? A.—No, there is no such limitation. There is no 3 per cent. limitation in the Act.

Q.—Quite right; 4 and $3\frac{1}{2}$ I should have said. A.—I certainly drafted the original Act.

Q.—And, I suppose, are prepared to take the responsibility for that suggestion? A.—Yes, I suppose so, certainly.

Q.—It had your full approval and endorsement? A.—Certainly, and I drafted the Bill.

Q.—That was pretty strenuously opposed on behalf of people who stated that they represented the policy holders, was it not, that branch of the legislation? A.—My recollection is that that was opposed strenuously only by one company.

Q.—Was there not an effort made on behalf of those who stated they were acting for policy holders at the time that that legislation came before the Committee of the House, pointing out, amongst other things, what they claimed would be the injustice to the policy holders by such a change in the method of reserving? A.—There was a pretty full discussion before the Banking and Commerce Committee.

Q.—And you were made fully aware at the time, at all events, of the reason why the policy holders or those who said they represented them, and this one company—that is the Sun, is it not? A.—The Sun, yes.

Q.—Objected to the change in the reserve. You had those objections present to your mind at the time? A.—Oh, they were presented fully to the Committee.

Q.—And you knew of them? A.—Certainly.

Q.—They did not in any way alter or change your opinion as to the desirability of the legislation in the shape it ultimately took as to that reserve. A.—No, it did not. The interest rate was very low at that time; it is a mere accident that it went a little higher later.

Q.—We can hardly say a little higher; a good deal higher, is it not? A.—Well, it is a mere accident.

Q.—Do you really think that the periodical rise and fall in the rate of interest can be called a mere accident, or is it a recurrence on which you can count as certainly as you can count on the sun rising and setting? A.—Oh, I don't think so. I don't think it is.

Q.—You have not studied it through the past two or three centuries, how interest has risen and fallen? A.—No, I have not.

Q.—You look upon it as a pure accident? A.—As a pure accident in that particular case that it went up.

Q.—That it went up? A.—Yes, to the extent to which it did; at the time that was passed in 1899 I don't think anybody could have foreseen the rise in interest which has since taken place.

Q.—And I suppose you expect it to go down again? A.—I have no doubt it will.

Q.—And go up again? A.—And possibly go up again. But I think I may safely say that the general tendency is a lowering in the rate of interest.

Q.—Then you are aware, of course, that that legislation would have the effect of taking away from the profits of the shareholders or the policyholders? A.—That it would take away?

Q.—Yes. A.—Well, I suppose of necessity it must do so temporarily.

Q.—Absolutely as to those who die within any recent time after that legislation. Their policies must be reduced. That would be so, would it not? A.—Their policies—perhaps so.

Q.—Did it occur to you that it would have been more equitable to have spread the period for the reduction in the rate of interest over a considerable time, so much of a percentage year by year? A.—It is spread over a considerable time.

Q.—It is made compulsory at a given date that the rate should be brought down? A.—Yes.

Q.—Did it occur to you that the legislation might have directed that year by year one twentieth or one sixteenth of one per cent. should be reduced and no more? A.—I cannot say that that was in my mind at all at the time it was done.

Q.—That would have been much fairer, would it not, to the general body of policyholders if the reduction had been made in that manner; it

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would not have borne so heavily upon those policies that might become claims within a few years. A.—Those policies that became claims within a very few years—there is no doubt of this, a policy that becomes a claim after it has been in force 5 or 10 years, there is a very small amount of premium paid upon that policy, and the return is very large in proportion to the outlay and I am not prepared to say that there is any so very great unfairness in what has occurred. However, that idea, if it was thought of by anyone, was not presented and it should fairly have been presented by those who were opposing the legislation. They never spoke of it.

Q.—I do not think, Mr. Fitzgerald, that perhaps you quite mean that. You were not representing the interests of the companies; you were representing, I take it, as much the interests of the policyholders as anybody could. A.—Yes, to make it secure for the policyholders; as secure as we could.

Q.—And, therefore, any view that would be to the advantage of the policyholders, surely you would not say that you should not prevent it, you would not put it that way, would you? A.—No.

Q.—Anything that would work out equitably for the policyholders would be a matter that would be your care and duty to present. A.—Well, I endeavour, Mr. Hellmuth, on all occasions to do so.

Q.—Quite so, but you put it the other way to me and I thought you made a slight mistake, when you said those representing the policyholders ought to have presented it. It did not occur to you? A.—No, it did not occur to me.

Q.—Or you would, no doubt, have considered it, had it occurred? A.—Undoubtedly, anything that occurred to me would have been considered by me.

Q.—Now, in regard to that legislation—and I am only dealing now with the class of legislation in reference to the reduction in the rate of interest, you understand, because there is a great deal more in 1899. A.—Yes.

Q.—In regard to that who was at that time Deputy Minister of Finance? A.—Mr. Courtney was the Deputy Minister of Finance.

Q.—Was Mr. Courtney consulted as to that Bill in that particular by you? A.—I would not say that he was, except that, of course, he knew what was going on all the time.

Q.—I am not asking if he knew. I suppose he would know that the Bill was to be introduced. What I mean is, had you consultation and discussion with Mr. Courtney, the Deputy Minister, as to that particular feature of that Bill and as to the effect it would have upon both the policyholders and the companies. A.—No, I don't think I ever consulted Mr. Courtney with regard to it.

Q.—Now, who was the Minister of Finance at that time? A.—Mr. Fielding, the present Minister.

Q.—Can you say whether in regard to that matter there was any consultation or discussion with Mr. Fielding? A.—I think there is here something that will show what was stated by Mr. Fielding. There is a paper here which has a portion of the discussion which took place in the Committee of the House.

Q.—Is this an exhibit? A.—No, it is not.

Q.—You put in my hands now the "Insurance Press" a journal published in New York? A.—Yes.

Q.—Of date, this issue, June 28th, 1899, and the article which is marked in it is, "Interest Question in Canada" Proposed Amendments to the Insurance Act discussed at a Conference in Ottawa." It goes on to the third page. Do you say there is something in this? A.—Mr. Fielding was the principal spokesman there, as you will see. Mr. McCabe and others spoke and that is a fair account of what took place.

Q.—This shows that Mr. Fielding, the Minister, was thoroughly aware of the proposed amendment in regard to this question of the reduction in the rate of interest. A.—Precisely.

Q.—Were all these objections presented to Mr. Fielding either in the Committee or at other times, I mean the objections that are made to the Bill, he was present, I suppose? A.—He was present, yes.

Q.—So that Mr. Fielding, as well as Mr. Fitzgerald were at one in regard to the desirability of that particular legislation at that time? A.—At that time, yes. One of the exhibits here contains letters from prominent financiers on interest rates. That is a document I read from largely myself at the time. (Exhibit 690).

Q.—This paper that Mr. Fitzgerald has handed me, the "Insurance Press" of 28th June, 1899, may, I think, go in, with your Honours' permission (Exhibit 708). Has there been since

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this time, any further effort by anyone for the introduction of a Bill to further reduce the rate of interest? A.—None.

Q.—You are, of course, aware that voluntarily several of the companies have reduced the rate to 3 per cent.? A.—Yes.

Q.—That has not been owing to any, not merely pressure, but even suggestion, from the Insurance Department? A.—No suggestion whatever, nothing of the kind.

Q.—For that further reduction in any company, whatever it may be, there is no Governmental responsibility? A.—There is no Governmental responsibility.

Q.—And no Governmental approval or disapproval expressed? A.—No, no Government disapproval or approval.

Q.—That is a matter for which the individual company must answer for itself? A.—Precisely.

Q.—You stop with the legislation in 1899 in that respect? A.—Yes.

Q.—And you have not, or have you, in contemplation any further legislation so far as your Department is concerned, reducing that still further? A.—None whatever. It has not been thought of.

Q.—As a matter of fact, whether by accident or by the natural recurrence, the rate of interest would not have justified the requiring of a lower rate. A.—No, that is quite correct.

Q.—The companies, in fact, have been earning, as I have no doubt you are aware, an average of something close to 5 per cent., about 4.8. A.—Well, beyond 4½ I think, as a rule.

Q.—On their total invested funds? A.—Yes.

Q.—Or total funds, I may say, I suppose. So that they have been earning over one per cent. more than the rate of interest required by the reserve? A.—Yes, I believe they have.

Q.—And would I be right in saying that would, therefore, other things being equal, be a percentage which would go towards profits? A.—Yes, it should go towards profits.

Q.—The company should have according to their own showing, one per cent. at least per annum available for profits, after having had enough to meet the interest on the reserve. A.—Yes.

Q.—The required Government rate at its lowest figure? A.—Yes, unless

they wanted to use a little of it for extending the business.

Q.—I am not dealing with that. If the business carries itself, that is to say, if the business is carried by the loading upon premiums, provision is made for it in that way, that one per cent. would be available for that purpose? A.—Yes.

Q.—There are other sources of income, as, of course, you are aware, the saving in mortality and others? A.—Yes.

Q.—And so one might reasonably expect that the companies—or those with large assets—would have a very large sum for profits after providing for the reserve, year by year. A.—They should have quite a large sum, yes.

Q.—Do you think it would be just as reasonable, if there is to be any legislation in regard to reserves—that is as to the rate of interest—that there should be a prevention of their going below a certain rate as well as a prevention of the company going above a certain rate? A.—I do not at the moment see whether there might be any objection to that step or not. You mean some of the companies are reserving upon a 3 per cent. basis.

Q.—Yes, and, supposing they go to 2½ or 2 per cent. A.—Whether there would be any objection to legislation compelling them not to do so. That is your idea?

Q.—Yes, compelling them to value—at the present moment, a company, as I understand it, must value its reserve upon, we will say, a 4 or 3½ basis, according to the time? A.—Yes.

Q.—It must do so and it must show assets equivalent to that at least in order to be in a solvent condition, is that not so? A.—No, it is only required to show assets in accordance with the requirements of the Insurance Act. It is not required to show a reserve upon a 3½ per cent. or a 3 per cent. basis.

Q.—No, you misunderstand me. They have got to show a reserve upon 4 per cent. during the period for which it is for and 3½ for the period for which it is 3½, and if they cannot show assets equivalent to that, they would be insolvent. A.—They would be insolvent, yes.

Q.—Now, if they chose they might, as the Act stands, value their entire reserve upon a 2 per cent. basis? A.

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—There is nothing in the statute to prevent them at present.

Q.—And, therefore, you might show no real surplus or available assets for distribution amongst the policy holders, if they did that; there is nothing to prevent them doing that. A.—There is nothing in the statute to prevent it.

Q.—In that view I wish to ask you whether you think it reasonable that a company should be able to hold without disclosure surplus assets by taking a lower rate of interest for reserves than the Government requires? You see a company has on the Government standing, we will say, a million of surplus assets, but by valuing its reserve on a basis of its own, $2\frac{1}{2}$ or 2 per cent. or 3, as the case may be, it does not disclose that surplus and the policy holders do not know that it is in a position to pay them profits, living fully up to the Government standard. Do you think that that should be possible? A.—Well, is that not a thing that will right itself, will not a company, in its own interest, be careful not to value its assets on too high a basis?

Q.—In a sense you are arguing, but I have no objection to that at all. The position is this; today a company may value its assets or its reserve upon a $2\frac{1}{2}$ or 3 per cent. basis. It may five years hence, adopt the Government standard. It could, of course, do so. The policy holders of five or ten years hence may be large profit earners on what should have gone to the policy holders of five or ten years back. A.—I see your point, Mr. Hellmuth.

Q.—Is it not reasonable that all these companies should have to value their reserves—as long as there is a Government standard—upon that and show all their assets or surplus assets whatever they may be? Does not that appear reasonable? A.—Well, there is an argument in favour of the policy holders, because that is in favour of the policy holders.

Q.—In having it done that way? A.—Certainly there is.

Q.—And could not the policyholders fairly judge then between the standings of the companies; they would have them all valued on the same basis, and they would know that whatever surplus one company had it would be on the same basis as the surplus of another company? A.—There is no doubt that that would

have its advantages. It certainly would have its advantages.

Q.—So that you do not see that there would be any objection where there is a Government standard fixed, to having that fixed as a definite standard on which reserves were to be calculated? A.—You mean compelling them all to value upon that Government standard and not upon a higher?

Q.—So far as the Government returns were concerned, that is so far as your Blue Book and statements were concerned? A.—Well, of course you know, Mr. Hellmuth, once in five years we are required, under the Insurance Act to value all those policies and they are valued upon the Government standard and that result is published in the Blue Book.

Q.—I quite understand that, but year by year that does not appear? A.—No, it only really appears once in five years in the case of each company.

Q.—It gets back to that, if there is a standard why should it not be a fixed maximum and minimum, a fixed rate and not a variable rate? A.—There is something to be said in that view, Mr. Hellmuth, but there may be the other side of it which I am not prepared to present at the moment.

Q.—Mr. Chairman, I have my papers at my room and if you would allow me to take the adjournment now, if my learned friend has no objection, I would be able to go into the matter more concisely with Mr. Fitzgerald.

JUDGE MacTAVISH: Very well, unless you wish to return earlier, we will adjourn until 2 o'clock.

(At 12.45 adjourned to 2 o'clock).

AFTERNOON SESSION.

MR. HELLMUTH: Q.—You have spoken of the legislation of 1899 in so far as the rate of interest was reduced in respect of the reserve. Now, with regard to the clauses in that legislation dealing with investments, were those clauses inserted at your suggestion or not? A.—Well, the original draft of that bill was made by me, but it was varied and modified in several ways before it came before the Committee.

Q.—Was that at the instance or representations made by the company? A.—Yes.

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Q.—And the powers eventually given were wider than those of the original draft, were they not? A.—Yes, I think so. There is a draft of the original Bill which is here on file.

Q.—I do not want to go into it in detail, but the companies were anxious to have wider powers? A.—Wider powers of investment. They certainly were.

Q.—Now, in respect of investments there is undoubtedly under the Dominion legislation a legislative control exercised over the companies by these clauses? A.—By these clauses, yes.

Q.—In that respect quite different from the English system, is it not? A.—Yes, that is correct.

Q.—That is to say under the English system the companies can invest in whatever they choose? A.—Pretty nearly so. It is covered by their—

Q.—Unless if they make any restrictions, they are restrictions of the companies themselves? A.—Yes. Under their articles of association they fix all that, matters of that kind.

Q.—When the Government does lay down a class of securities in which companies may invest, you recognize, of course, that they take a considerable burden upon themselves. They have taken it out of the control of the directorate of the companies and fixed the standard? A.—Yes.

Q.—They fix the standard? A.—Yes.

Q.—And say, "Beyond this you cannot go?" A.—Yes.

Q.—And it becomes then of very vital importance, does it not, to scrutinize carefully what investments should or should not be permitted? A.—Oh, it is an important thing, certainly.

Q.—It is an important feature? A.—Certainly.

Q.—It is a feature that becomes the duty of the Government or those to whom they may intrust that matter, to ascertain what is a proper class of security? A.—Yes, certainly.

Q.—Why did the Government, when dealing with insurance funds, treat the investment of them in a different way from other trust funds? Why did they widen the powers?

MR. SHEPLEY: Pardon an interruption. It is just a question of terminology. You speak of the Government and you mean Parliament.

MR. HELLMUTH: I mean Parliament. I accept that suggestion.

Q.—At whose advice or at whose instance did Parliament decide, when exercising a control over investment at all, the investment of insurance funds in a different way from the investment of trust funds? A.—Well, that is rather a broad question.

Q.—It is. I admit it? A.—And I am not prepared to say at whose instance it was done or why it was done.

Q.—Was it at your instance? A.—No, it was not. You will find that originally every company when applying for an Act of Incorporation have the investment powers set out in that Act.

Q.—Quite so, I quite understand that? A.—And it was not until—I believe it was in 1899 that these clauses were added.

Q.—But in 1899 the parliament laid down a definite class of securities intended to apply to all companies equally, in regard to which it might make investments? A.—Well, not to all, because you will find there are certain companies excepted from it, which had certain wider powers.

Q.—I quite understand that. Those companies that had wider powers before— A.—Yes, they were not taken away from them.

Q.—But in regard to all companies whose powers at that time were not wider, and as future companies might come into being, the Parliament of Canada subscribed a standard for investment? A.—Yes.

Q.—Now, can you give me any reason why that standard should be broader and wider than the standard fixed ordinarily for the investment of trust funds? A.—It is not entirely admitted that trust funds and insurance companies funds stand upon the same footing.

Q.—That is a very good reason. Do you or do you not as the Superintendent of Insurance view the funds of an insurance company as trust funds? A.—To a certain extent they are trust funds undoubtedly.

Q.—Will you tell me in what respect they are not trust funds? A.—Well, that is something that I would not undertake, to try to define to what extent they are not trust funds. I would not undertake to do it.

Q.—They are, save the trifling amount of capital, they are all the funds of policy holders entrusted to the company. Is that not so? A.—In what sense now do you mean?

Q.—I mean that they are not the funds of shareholders? A.—No.

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Q.—Or the funds of the individuals who manage the company? A.—They are not. No, they do not belong to either one or the other.

Q.—They are not like the funds of a trading corporation, or an ordinary commercial corporation, that is so, is it not? A.—An ordinary trading corporation?

Q.—Yes. They are not like the funds of an ordinary trading corporation in which the various shareholders are partners in the enterprise and put in their money for the purpose of trading? A.—No, they differ from that undoubtedly.

Q.—They are funds over which, while the company has control, the aim of those who deposit them is to make provision for their families after death? A.—Yes.

Q.—That is the object? A.—That is the object.

Q.—Of life insurance? A.—Yes, that there may be funds in hand to pay the claims as they mature. That is undoubtedly the object.

Q.—And the insurance companies require a sufficient amount of what is called premium to be paid so that in the aggregate there will be additions made to that claim? A.—That is undoubtedly the intention and the object.

Q.—In what respect then have the companies in the handling of those monies any greater rights than an ordinary trustee would have in the handling of monies entrusted to him in your opinion? A.—Undoubtedly they would exercise greater powers over them.

Q.—But I want you if you can to give me what the distinction is? A.—Between the funds of a company and ordinary trust funds?

Q.—Yes? A.—Well, Mr. Hellmuth, I would not like to undertake to give a distinction between the two.

Q.—You would not like to undertake to give that? A.—No.

Q.—If there is no practical distinction can you give me any reason why the powers of investment should be wider, assuming there is no practical distinction, no distinction in principle between the funds in the hands of an insurance company and the funds in the hands of an ordinary trustee? Can you tell me why there should be wider powers of investment? A.—One reason I think would be this: if the insurance companies were limited to the funds in which trustees, say, under our Canadian Acts, might invest their funds, they never could

get them out. There would not be securities enough available.

Q.—There would not in your judgment be securities enough available? A.—No.

Q.—You have got to go beyond? A.—You have got to go beyond or you could not get the securities.

Q.—Is that the principal or the main reason? A.—That is one very important reason and I would not say there may not be other reasons.

Q.—But that is the one that suggests itself to you at this moment? A.—Yes, it would be an absolute impossibility for the companies to get those securities such as trustees may invest in, sufficient to put their money out.

Q.—You mean, of course, at sufficiently remunerative rates of interest? A.—Yes.

Q.—They could get the investments, of course? A.—Well, possibly, but it would certainly be at very low rates of interest if they could.

Q.—When you say very low rates of interest, somewhere about three and a half per cent.? A.—I do not imagine you could get them at three and a half per cent., and if you were going to take that class of security it would have to be at a lower rate of interest than three and a half.

Q.—You do not think trust funds under such trustee acts as are in force in the various provinces, you do not think an investment in that class of securities could be got at even as high a rate as three and a half by the insurance companies? A.—I doubt whether they could or not.

Q.—You know, of course, that there are a number of very large and important corporations, trust corporations they are called, that do invest very large funds strictly under the provisions of the trustee act? A.—Yes. Well, even the trust companies that invest their funds do not go to anything like the amount that the insurance companies do.

Q.—I did not say that, but you know they do invest their funds, very large funds sometimes, in that way, running into many million dollars? A.—I presume they do, but I have no personal knowledge of the extent of the investment of the trust funds.

Q.—Nor have you any knowledge of the rates of interest which the trust corporations average upon their investments? A.—No, I have not.

Q.—Now what legislation outside of the Act of 1899 have you asked for?

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What further legislation, or have you asked for any? A.—Well, I have drafted a Bill in amendment to the Insurance Act.

Q.—I understand so? A.—Of which possibly you may have seen a copy.

Q.—That is the 1904 one? A.—Yes.

Q.—The end of the session? A.—It never was introduced.

Q.—Did that Act embody everything that you thought necessary in order to sufficiently meet the situation? A.—At the time it was drafted I thought it did.

Q.—At the time it was drafted you thought everything that was necessary was in it? A.—Yes.

Q.—At that time you considered that your powers were not wide enough when you drafted that Act? A.—Well, that particular Act does not enlarge the powers of the superintendent very much, I think.

Q.—Do you or do you not consider that the powers you have are sufficiently wide? Have you sufficiently wide powers? A.—I think possibly there are certain amendments that might be made profitably and properly, giving wide powers.

Q.—Why did you not ask for them before? A.—The necessity for them did not seem to have arisen.

Q.—Then the necessity did not seem to have arisen until after the beginning of this investigation? A.—Until about the time—

Q.—Of the appointment of this Commission? A.—Or a little prior to it.

Q.—Shortly prior to it? A.—Shortly prior to it.

Q.—You did not think prior to that that the necessity for wider powers in the department had arisen? A.—No. There is a Bill—probably you may have a copy of it. It was drafted, and the one that I referred to—that embodied everything that I thought was desirable just at that time.

Q.—That, though, as you say, did not very largely, if really at all, increase your powers? A.—No, it did not.

Q.—So that at the time that Bill was drafted you had not been impressed with the idea that the Superintendent of Insurance should have wider powers? A.—No.

Q.—Though your powers were at that time practically limited, so far as power was concerned at all events to declare a company insolvent—

MR. SHEPLEY: Are you putting that as a construction?

MR. HELLMUTH: Yes, I am assuming that.

Q.—Would that be correct, that your powers, so far as any carrying out of them was concerned, were limited to declaring that a company must cease to do business because it was insolvent? You could not stop a company any other way? A.—That is the only ground.

Q.—You could not, nor could the department, withdraw either permanently or temporarily, the license of any company, or order it to cease to do business unless practically it was insolvent or failed to make the returns? A.—Yes, I think there was a clause of that kind.

Q.—But if a company was, in your opinion, conducting a business on unfair or erroneous lines, you had no power over it under the Insurance Act as it stands? A.—No.

Q.—As long as it was solvent? A.—As long as it was solvent.

Q.—That was the construction you yourself placed upon the Act? A.—That was the construction. Under section 29 of the Insurance Act, under the heading "Forfeiture and renewal of license" there is this proviso: "When satisfactory proof has been furnished to the Minister of an undisputed claim," etc. (Reads clause. That is sections, 29, 30 and 31.

Q.—As I put it to you, no matter, in your opinion or in the opinion of the department, how vicious in principle might be the methods adopted by an insurance company, you have no right to stop them doing business and to say, "We won't have you doing business on those lines"? A.—There is no power under the Act to stop it.

Q.—And was it by reason of that view you took of the Act that you did not inquire at all into such questions as the ratio of expense of companies to their income? A.—The ratio of expense to the income.

Q.—Yes. You never did that? A.—No, I did not do it, and there was no provision in the Act, if I had done it, that I could take any action in respect of it.

Q.—I quite understand that. It will save considerable time if we can get at some general principle—I mean so far as my examination is concerned. I do not want to go over what has been done, and thoroughly

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done in most respects—in all respects I would say as far as I have followed it—in what you did not do, but the reason for whatever omissions in the way of inquiry in regard to the workings of the companies, and how they were carrying on their business from time to time, was on account of the view you took that you could not remedy this is you did— A.—There was nothing that I could do.

Q.—Is that a correct way to put it, that you never made an enquiry to see—take an instance of how the expense ratio of the Canadian companies compared with the expense ratio of British or American companies. You made no such inquiry? A.—No, I think I made no such inquiry. I do not know that I am prepared to say that just as you do that it was because—just how did you put it again?

Q.—I said because an inquiry of that character would not have helped you at all in enforcing your views, if you had come to any, upon the companies? A.—Yes, I had no power to do anything with it if I had.

Q.—Is that the reason? A.—That is probably the principal reason.

Q.—You said, for instance, in one portion of your examination on page 37, that you had no power to compel the getting of valuations for real estate? A.—No.

Q.—I am just giving you an illustration? A.—Yes.

Q.—And therefore you did not make any effort to get that? A.—No effort. Well, in a few instances I simply took the law into my own hands and did get them.

Q.—Well if you took the law into your own hands and did get them, why did you not take the law into your own hands in other cases? I do not mean in the valuation, but in other cases, where you had ground for thinking any given company was not properly conducting its business? A.—Well that is a difficult question to answer. I am not prepared to give an answer to it.

Q.—I am quite sure you would say you did not intend to discriminate against one company or another? A.—That is undoubtedly the fact.

Q.—Why did you not ask the Department of Justice, to which you went on some occasions, for any view from them as to what your powers were, or did you rely on your own construction? A.—Well I certainly did rely almost wholly on my own construction of the Act.

Q.—When first can you say it struck you that it would be desirable that you should get wider powers? A.—Well I cannot fix the date.

Q.—Will you say just shortly before this Commission was appointed? A.—Well I would not like to fix that date. I may have had the idea for quite a long time before.

Q.—If that be so why did you not ask for it? A.—There is a great deal of difficulty from time to time in getting bills through on account of the hurry. I do not say that there would have been any difficulty, but you see that Bill, the draft of which I have—I think you have a copy of it—

Q.—It is in as an exhibit? A.—It is in as an exhibit. That was prepared two years ago.

Q.—But that Bill as you have yourself said did not practically give you any wider powers? A.—No, I do not know that it did give me any wider powers.

Q.—Why did you not in that Bill, or in any other proposed draft, ask for these wider powers? A.—Well, I think the answer to that would be that until after that Bill was drafted the necessity did not seem to arise. I put in that draft which was prepared, everything that I thought was necessary at that time.

Q.—I think that some of these questions arose as far back as 1902. That is my recollection. Was not the question as to Sao Paulo as far back as 1902? A.—Oh I do not know how far back that was.

Q.—I see it was back in September, 1902? A.—That was referred to the Department of Justice, but their answer did not come for a very long time afterwards, I do not know how long but it was quite a long time after.

Q.—Well there was no answer when you were being examined in March? A.—No answer?

Q.—No. A.—Sao Paulo?

Q.—Yes. A.—I think there is an answer but I am not positive when.

Q.—I think there has never been an answer to that, if my recollection serves me right.

MR. SHEPLEY: Q.—What company was that in connection with? A.—It was the Canada Life.

MR. HELLMUTH: I am wrong. You did get an answer to that in 1905, three years after? A.—Yes.

Q.—But at that time—I only gave you that as an instance—questions were coming up before you then as far back as 1902 as to investments. Did it not strike you then that some power

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should be vested in your department in yourself as superintendent to say "I cannot permit of this security being taken"? A.—I do not know whether that would be particularly desirable or not, to have to leave to the Superintendent of Insurance whether they should or should not take a particular security. I think it would probably be putting more upon the superintendent than he ought to be expected to attend to.

Q.—Well there are certain penalties for doing things. You remember that? A.—Penalties for doing what?

Q.—In your draft bill did you not propose certain penalties upon companies for infringements? A.—There is no penalty for making an investment that is unauthorized.

Q.—I do not mean for investments but for other things? A.—Any penalties that are there I think have been pretty strictly enforced.

Q.—I understood you to say during your examination that where there was a penalty you had no power to prevent even the act itself or the recurrence of such an act; all you could do was to enforce the penalty. You had no right to say "If you go on offending I will stop you?" A.—I have no power to do it.

Q.—Don't you remember discussing that? A.—I do not think so. I do not remember any such statement as that.

Q.—I read something in connection with the penalty clause which I will follow up in a minute. However you felt to some extent helpless to carry out what you thought would be a proper course at a time when a company was transgressing? A.—Well in respect of what? Indicate it, because I cannot answer it in that general way.

Q.—For instance, take the Manufacturers Life in those investments? A.—Yes.

Q.—Practically all that you felt you could do was to send in a report to the Minister. Was that not all? A.—Yes.

Q.—You had no power to say "This must stop"? A.—No.

Q.—That was the position? A.—That was the position.

Q.—Don't you think there should be any power in the Superintendent of Insurance in regard to matters of that kind which you say were wrong—would it be too strong to say in regard to such a transaction, flagrantly wrong? A.—It might be desirable to give the superintendent wider powers than he has in certain directions.

Q.—I want to know what you think about it. Do you want any wider powers? A.—Yes, I think I do.

Q.—You do want wider powers? A.—Yes, I think I do.

Q.—You have been superintendent for a great many years? A.—Pretty nearly twenty-one years.

Q.—And if you can only say you think you need wider powers, you have not really any strong opinion about it? A.—You know for a number of years when everything was going along smoothly, and everything of that kind, there would not appear to be any necessity for it. Later on things have arisen, or may have arisen, which would make it desirable that I should have wider powers.

Q.—And now you would advocate wider powers? A.—I think I would advocate certain wider powers.

Q.—I see on page 65 you are asked in reference to amendments in the Act of 1899, and the question is put to you, "I think it must have been before 1899, must it not, because it is not in the copy I have; at any rate it is an amendment since the general Act," and you answer "It is an amendment since the general Act." Then you are asked, "Was there any circumstance that brought about that amendment?" And you answer, "Well, just the circumstance that I have mentioned here. That was one of the circumstances at all events, where I asked for certain information, and although it was given to me, it was given reluctantly, and it was to meet that case, and there have been other occasions of a somewhat similar nature as much as to say 'This is none of your business.' That was the effect of it." Now, before 1899, when apparently on that particular occasion and on other occasions you had asked for information you say that the reply had practically been 'It is none of your business?' A.—Yes.

Q.—That is in your evidence? A.—Yes, very likely. That refers to one particular clause that was added here to the Insurance Act.

Q.—That refers to one clause that was added to the Insurance Act? A.—Yes.

Q.—Were there any other matters of a similar nature or character that required to be dealt with in your judgment? Was that the only one? A.—I do not think of anything else just at the present time.

Q.—You did not think at all that it was necessary to have the companies forced to explain to you why their

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expenses, for instance, were so high, that you should have a right to say "In what manner do you make out such a large expense account?" That did not occur to you? A.—No it did not. It did not occur to me that I was running these companies.

Q.—I am not talking about running, I am talking about superintending, not running? A.—Yes.

Q.—If you were to find that one company's expense in ratio to its income was eighteen per cent. and you found another company with sixty-five percentage of expense to premium income, would you not think you ought to inquire into such a thing as that? A.—It is a case in which that company would not last long if it continued at that ratio of expense.

Q.—I did not ask that, but would that not be a matter in regard to which you would think you would have a right to seek and get information? A.—I do not think under the law as it stands that I would have that right.

Q.—I know you would not, but I am asking you whether you do not think it is a matter in which you should have the right? A.—Possibly so. There may be certain directions in which the Act might be very much strengthened and might be profitably strengthened.

Q.—Are there not a number of matters that suggest themselves to you as desirable that the Superintendent of the Insurance Department should have the right to get information if they desired it, the right to ask and receive information if they desired it in regard to the workings of these companies? A.—There may be very many matters in which it would be desirable that they should have information.

Q.—Who would be the person who would suggest to the Government or Parliament the legislation along such a line compelling information, except yourself? A.—I suppose I am the proper person from whom that information would be expected.

Q.—That is that the Government and Parliament would have a right to say that if there was any information required from the companies which by law they should be compelled to give, Mr. Fitzgerald should lay that before them. That would be proper would it not? There is no other official who would do it of his own motion? A.—No. I presume there is not.

Q.—Have you considered it necessary to make a study of the, shall I say science of life insurance, so as to ascertain what is sound and what is

unsound business in life insurance? A.—I would not claim to have made a special study of it.

Q.—Has there been any legislation, general or special in regard to insurance that has not received your approval or that has been passed over your protest? A.—From time to time bills have been passed to which I objected.

Q.—That is to say your views have not been carried out by the powers that were superior to you? A.—Yes.

Q.—Does that apply only to the special acts, or to the general insurance Act or amendments? A.—Well, the special acts as a rule.

Q.—So that so far as the general Insurance Act, or amendments that have been made since your time, at all events are concerned, you have not anything to quarrel with in them? A.—No.

Q.—Nor any protest lodged by you against them? A.—No, I do not think I have any fault to find with the legislation so far as the general Act is concerned.

Q.—How many special acts have you protested against the provisions of? How many special acts have you protested against, either in whole or in part? A.—I could not tell you offhand.

Q.—A number? A.—Quite a number.

Q.—Protested against, of course, because you thought there was something erroneous in principle in some clause or another? A.—Quite a number against which I have protested which were amended, some of them—there will be quite a number—against which I protested and they were withdrawn.

Q.—And will you say a number against which you protested that were put through? A.—A few.

Q.—Is that right? A.—Yes.

Q.—So that we have the three classes? A.—Yes.

Q.—Can you tell me the last act in regard to which you entered a protest which was put through? Give me one that was put through against your protest? A.—I would like to have time to think about it. They have not been very numerous as far as that is concerned. Perhaps the Act relating to the Independent Order of Foresters—that was not, I may say, put through in its present form. That act came up, I think, in—I cannot recall the year now in which

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that act was passed, probably in 1896 I think it was.

Q.—Then may we say that that Act, as it eventually went through, went through without protest on your part? A.—Well, after numerous alterations had been made in it, then it went through. It was practically agreed upon in the end.

Q.—Then we will leave that out of consideration. I want one that went through notwithstanding your protest? A.—I will have to look it up.

Q.—What about the Mutual Reserve Bill? A.—That was before my time.

Q.—I mean the recent Mutual Reserve Act? A.—Oh yes, that recent one.

Q.—That was in your time? A.—I was aware of that.

Q.—Had you any protest to make in regard to it? A.—No, I thought that was the best that could be done at that time under the circumstances with that company.

Q.—So that the Mutual Reserve amendment bill had your approval? A.—Yes, it had.

Q.—It was very vigorously contested, was it not? A.—No, not so vigorously contested.

Q.—Was it not? A.—No, I do not think so.

Q.—Not in the Senate? A.—I do not think it was. I do not remember that it was very vigorously contested in the Senate.

Q.—Some considerable depositions and considerable opposition, as I remember reading in the papers at that time, to that Act? A.—Some two or three years ago.

Q.—I do not know whether it was two or three or three or four.

JUDGE MacTAVISH: Three years ago.

MR. HELLMUTH: Q.—You do not remember any considerable opposition to that bill going through? A.—Not a very great deal.

MR. SHEPLEY: Perhaps it would be convenient to identify the Bill.

MR. HELLMUTH: Yes. This is the Act, "An Act respecting the Canadian Assessment Policy Holders in the Mutual Reserve Life Insurance Company, 4 Edward Seventh, chapter 101, passed as late as two years ago, August, 1904? A.—Yes.

Q.—Don't you really remember that there was most strenuous opposition to that Bill? A.—There certainly was not very strenuous opposition in the Commons.

Q.—I did not say that, in the Senate? A.—No, there was an investigation held by a committee of the Senate with regard to that company, but I did not understand that it had necessarily to do with that Bill. It was an investigation that I had nothing whatever to do with. I did not attend one of its meetings, never was called upon to attend and I really do not know what they did because they never made a report. That committee never made a report.

Q.—Did you make a report upon the effect this Bill would have upon the Canadian policy holders in the Mutual Reserve? A.—I certainly made no report upon it.

Q.—Did you ever make the inquiry as to what would be the outcome, so far as the Canadian policy holders were concerned, if this Bill (Exhibit 709) became law? A.—Well, one could not very readily see what the outcome would be as far as that is concerned.

Q.—Have you since ascertained what effect it has had upon the Canadian policy holders? A.—I do not know. There have been a few complaints with regard to it. It may have had the effect that a great many policy holders have dropped their policies. It may have had that effect.

Q.—Are you aware at all as to the number of policies now in force in Canada as compared with the policies in force at the time of that bill? A.—No, I am not.

Q.—Are you aware of what terms were offered under that Bill to the Canadian policy holders? A.—No, I am not.

MR. HELLMUTH: I think Mr. Shepley is following up the results of that and I will only just ask Mr. Fitzgerald a question or two further in regard to the legislation.

Q.—At the time the legislation of 1904 went through you made, as I understand, no reports at all. You were not asked for one you tell me? A.—I made no report.

Q.—And you made no enquiry independent of a request for a report, as to what might be expected to be the result of such legislation? A.—No, I made no report.

Q.—You did not make an independent inquiry as to what would be the result of that legislation, what might be expected to be the result upon the Canadian policy holders if that legislation became law? A.—Well of course one can never foresee or imagine what

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would be the effect upon them, but it was considered at that time that it was the only practical thing to do.

Q.—That is, it was considered by the majority in the Senate, not by all, because there was most strenuous opposition. I tell you that as a matter of fact. I know there was. At the time I was sufficiently interested to read the report, and there was very strenuous opposition, but the majority put the Bill through? A.—Yes.

Q.—And what you say is that you did not go into it from anything like an actuarial standpoint to see what would be the result to the Canadian policyholders of that legislation? A.—Well now when you speak of an actuarial point of view what is it you mean?

Q.—To find out what, for instance, the Canadian policy holder who had a \$5,000 or \$10,000 policy in the Mutual Life, that he had been carrying for fifteen or twenty years, would be offered by the Mutual Reserve for that policy as a paid-up policy if he had to give it up? A.—As a rule it was not worth a dollar—these assessment policies. They paid their way as they went and there was no value in them. That is the situation with regard to all these assessment policies.

Q.—And you came to the conclusion that practically the policy holders had no interest at all? A.—They had no valuable interest as a rule, no valuable interest in any of those policies, and the result was the bill then as it went through gave them the insurance for which they paid on the basis of their then age. That is all an assessment policy holder can ever obtain.

Q.—May I say then that you approved of that legislation? A.—I approved of that bill in the end as the best that could be done under the circumstances.

MR. KENT: Q.—It was a case of making the best of a bad bargain? A.—That was precisely it.

MR. HELLMUTH: Q.—Did it occur to you that it would be better that the Government or Parliament of Canada should say that a company that could not keep its obligations had not better be licensed to do business under any circumstances, in Canada? Did that view of it strike you? A.—This company had already been licensed. I was in no way responsible for the licensing of it.

Q.—But as they could not meet their obligations, that it would be better to withdraw their license? A.—

It might or might not. The result of withdrawing the license puts the company into insolvency. It takes the insurers away from them. There were many of those insurers who were too old, or perhaps unable to get insurance anywhere else. If you put them out of business they are absolutely without insurance. As the Bill now stands they have a certain amount of insurance, though a reduced amount, and I consider that bill was the best thing that could be done under the circumstances.

Q.—Although it allowed them, under Government sanction to go on and continue business in Canada? A.—Yes, to go on and continue business.

Q.—Did you also consider it altogether outside of your line to enquire as to the representation of policy holders in the affairs of the company, whether they should have a hand in directing the affairs of the company? A.—Do you mean in this particular matter?

Q.—No, in any company generally? A.—Yes, I have been in favor of that.

Q.—Have you taken any steps whatever to bring that about by means of legislation or otherwise? A.—In almost every bill that has come up for the incorporation of a company the matter has been discussed—in some recent bills.

Q.—Have you done anything in the general bill? A.—No, there is no provision in the general bill. Every company must come to the Dominion Parliament to get an act of incorporation, and it is considered that is the best place to put it—to put the provision in the bill.

Q.—But you have not done anything in the general Act that touches that at all? A.—No, there is nothing in the general Act.

Q.—Nothing in the general Act at all touching that? A.—No.

Q.—Speaking of every company coming here to get a bill, you of course know of the provincial companies, the companies incorporated in the province of Ontario or the province of Quebec or the other provinces? A.—Yes.

Q.—They would not of course come here for any bill. They must get a license? A.—They may get a license, but occasionally they come to get a bill.

Q.—But that class of company would not as a rule require any act from the Dominion. They could get a license? A.—They can get a license under the Act as it stands.

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Q.—Just the same as a foreign company? A.—Precisely.

Q.—The American or English companies do not require any Act at all? A.—No Act at all.

Q.—But if there were a general law applying to companies who sought licenses here, as to policy holders representation, that would be much more effective would it not—that no company could be licensed unless the policy holders had a vote in the affairs of the company? A.—Such a provision could, of course, be put in the Insurance Act.

Q.—And it would have a much more general application than possibly it could have by inserting it in some of the special acts? That is obvious, is it not? A.—It would then, I suppose, no doubt apply to every company that came for a license under the Act. No doubt it would.

Q.—Nothing of that kind has been done? A.—Nothing of that kind in the Act.

Q.—I see—and I think it is only fair to point it out to you—that in the bill to incorporate the Western Life Insurance Company introduced in 1905, you have a clause in type-writing, evidently an amendment to the printed bill, that in addition to the shareholders' directors, there shall be elected by the policy holders at their first annual meeting after the commencement of business, and at each subsequent annual meeting six directors, hereinafter called policy holders' directors, and then there is a provision as to the voting power of the policy holders. So that as you see in several bills that has been your course, recently at all events? A.—Yes, that has been the recent course.

MR. SHEPLEY: Q.—There are other bills? A.—Yes.

MR. HELLMUTH: Yes. I understand Mr. Fitzgerald to say he had done that in private bills.

Q.—Just let me ask you here, as we were speaking of companies incorporated by the provinces, there has been some conflict, has there not, between the Province and the Dominion as to the right of these companies to transact business outside of their own provinces? A.—The question has arisen, and it has recently come up, and I think a case depending upon it is now before the Supreme Court. I think there is a case now depending upon it before the Supreme Court.

Q.—Let me see if this is the question, because I want to make it clear. The position of the Dominion has been—correct me if I am wrong—that

while, we will say, the province of Ontario could license an insurance company to transact business in the province of Ontario, yet if that company desired to transact business in, say the province of Manitoba, it would not be sufficient for it to obtain a license from the province of Manitoba to transact business there, but it would have to get a Dominion license? A.—That is the view, that a Dominion license is necessary in every case if the provincial company goes outside of its own province. If it remains in its own province—

Q.—I just put the case to you in the concrete. The Ontario Government charter or incorporate an insurance company? A.—Yes.

Q.—There is no question that the insurance company can transact business in the Province of Ontario? A.—Yes.

Q.—That company, not content with that, is desirous of transacting business in Manitoba and Quebec? A.—Yes.

Q.—And it applies to the provincial authorities in Quebec and Manitoba and obtains from them a license to transact business in those provinces, do you say there is no power to do it? I understand that is the contention. I do not say you, but the Dominion contend that. Is that it? A.—What the Dominion says is—

MR. SHEPLEY: The view rather.

MR. HELLMUTH: Yes, I will accept the better phraseology of my learned friend.

WITNESS: The view is that, notwithstanding the license by Quebec or Manitoba, a Dominion license is also necessary. That is the position. That is the view.

Q.—It is not simply that the province would have to give a license, but you say further that the Dominion has got to give a license? A.—Yes.

MR. SHEPLEY: This litigation is very interesting, and is very apropos of what we are discussing and I happen to know about it. The litigation is with respect to a fire company, but the question is just the same. The view that has been argued before the Supreme Court is that a provincial fire insurance corporation cannot, by reason of its being incorporated for provincial objects, go outside the province at all, that no provincial corporation can, even under a Dominion license, go outside the province.

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MR. HELLMUTH: That goes further than the view of the Dominion here, but the view as I understand it, of the province on the other hand, for instance the view of the Province of Ontario, is that they can license a company to do business in Ontario, and that having so licensed it and created the corporation, then it is purely a domestic affair of another province whether it will allow it to do business there or not?

WITNESS: Yes.

Q.—That is the view of the Province of Ontario? A.—That is the view of the Province of Ontario.

Q.—I am not going into it at all, but merely to bring the question before the board, but that is the subject of correspondence between yourself and other parties sometimes. You have had correspondence dealing with that subject. Perhaps it might be well to put in some of that correspondence—

JUDGE MAC TAVISH: With the provincial authorities?

MR. HELLMUTH: I have here some one or two matters, letters from Mr. Fitzgerald upon the subject, if my learned friend will allow copies to go in.

MR. SHEPLEY: Certainly.

MR. HELLMUTH: I think it is a most important subject dealing with legislation.

MR. SHEPLEY: It is most important.

MR. HELLMUTH: And I do not wish it to be understood for one moment by the Commission or by my learned friends, that I am raising it at all as a contentious question, but one which has to be considered in framing legislation.

MR. SHEPLEY: We certainly shall have to deal with it very carefully.

MR. HELLMUTH: I have here, which I of course put in subject to verification, copies of two letters. One is an extract from page 67 of the report of Mr. Fitzgerald for the year ending December 31st, 1898, published in 1899, and with my learned friend's permission I will just read this so that it may be before your Honours' minds when you come to consider it. (Reads letter).

Q.—I have no doubt that is your letter? A.—It sounds like it certainly.

Q.—Then this is a letter written by you—I need not give the name of the person to whom it is written, because it is not material—on the 9th February, 1903. (Reads letter.) That

is the position, as I understand it, taken by yourself? A.—Yes.

MR. HELLMUTH: I am going to put in a document which throws a good deal of light on the contention of the provinces and the Dominion in regard to this matter, although it is brought up in regard to the status and rights of loan companies.

MR. SHEPLEY: If it has any bearing, all right.

MR. HELLMUTH: The parties to it are the Honourable David Mills and Arthur Sturgis Hardy.

MR. SHEPLEY: I know the document.

MR. HELLMUTH: We do not want to argue the matter at all, but the matter might well be before the Board. I have an extra copy and will put it in. (Exhibit 711). There can be no distinction between an insurance company and a loan company in that respect.

MR. SHEPLEY: The point rests in the B. N. A. Act.

MR. HELLMUTH: I may say further to the Commission that it was discussed at some length in a case *re* the Atlas Loan Company, which I happened to be concerned in, which went before the Court of Appeal for Ontario, but in that court it did not become necessary to express a decided opinion one way or the other, but the authorities were very exhaustively gone into, and perhaps some of the appeal books might be of use. I think I could find them, if my learned friend cared to see them.

Q.—That question has never been settled between any province and the Dominion? A.—It never has been settled.

Q.—Both parties are still holding to their views as far as you are aware? A.—Precisely.

Q.—I assume that your own personal view has coincided with the Dominion's? You have taken the Dominion position? A.—Yes.

Q.—Or is that merely officially—

MR. SHEPLEY: I think that is privileged.

MR. HELLMUTH: I do not know that I care very much which it is.

Q.—You can put yourself on record at all events as Superintendent of Insurance in that matter in those letters? A.—Oh, yes.

Q.—You do not want to change that position at present? A.—No, not at all.

Q.—I understand from what you have already said that you have never

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considered it part of your duties to go exhaustively into a comparison as to the methods of business of the various companies, British as compared with Canadian or American, with a view of bringing about any changes at all, to satisfy yourself that the methods of the Canadian companies were better or worse than those of the other companies? A.—No, I do not think that I have ever considered it—no, I do not think so.

Q.—If you have done it, I want to go into these questions with you. If you have not done it, it would be perfectly useless for me to attempt to discuss those questions? A.—I may say that I have not done it.

Q.—Have you—and there is just really only one other subject on which I need dwell in that view—have you taken up at all or examined into the question of State insurance? A.—I have only taken it up in this way; I have examined the insurance laws of the State of New Zealand, and made a memorandum some two or three years ago—I think it was made at the request of Sir Richard Cartwright—giving the law as it stood there and the results of it up to that time. That was made a couple of years ago.

MR. TILLEY: I think you have that. I think it is the one we saw? A.—I don't think it is in.

MR. HELLMUTH: Can it be put in?

MR. TILLEY: It will be available, but we were keeping these papers together.

MR. HELLMUTH: Perhaps I should not ask this question in view of that; did you express any approval or dissent in that document? A.—Neither one nor the other. I was simply asked by Sir Richard Cartwright to state what the law was, and I made a memorandum showing precisely what he wanted at the time.

Q.—Have you since or at that time, come to any conclusion yourself as to the advisability or not of state insurance?

MR. SHEPLEY: I would rather deprecate Mr. Fitzgerald stating his personal view on a subject of that sort. It must be a question of Governmental policy.

MR. HELLMUTH: If my learned friend does not desire it, I have no desire to press it.

MR. SHEPLEY: I do not know that Mr. Fitzgerald has any view.

MR. HELLMUTH: Quite so. I do not wish to press the matter. I think,

your Honours, that as Mr. Fitzgerald has stated practically that so far as insurance science or practice is concerned, he has not made that any special study, and that his duties have been to test the solvency of the companies in his investigation of them, it would serve very little purpose for me to go into the question of loading or a number of other matters and the question of what should be done in these companies, if it has never been as a matter of practice actually gone into I do not think any good purpose would be served.

MR. SHEPLEY: There is one subject that I would like to ask Mr. Fitzgerald a question or two about. There is a provision by which foreign companies may invest in the names of trustees. As a matter of practical working out what do you find with regard to that? First, is that a general method or is advantage generally taken of that by foreign companies? A.—Lately the large foreign life companies are taking advantage of it. For instance, I think, all the principal companies have trustees in whom they vest their funds. There would be the Standard, the New York Life, the Equitable, the Pelican. That is a British company. I believe nearly all; I am not certain whether I have omitted any or not. All the large companies have taken advantage of it, and the two British companies, the Pelican and the Standard.

Q.—What is your experience or the experience of the Department with respect to the investments which are made through these trustees? A.—Well, of course they are securities or have been in some instance securities which would not be accepted, which could not be taken as the law now stands, by Canadian companies.

Q.—That is the foreign companies have invested their funds in securities in which Canadian companies could not invest? A.—Could not invest.

Q.—And the method of permitting investments by trustees has lent itself to that? A.—Yes.

Q.—What observation have you to make on that from the standpoint of Canadian insurance? A.—Well, I would very much rather see Canadian securities vested in trustees than the class of securities which the companies generally have. One company, however, I may say has—two of them, in fact—the Standard has just such securities as would be taken by the Receiver General on deposit. Good se-

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curities. The Pelican and British Empire has also invested in Canadian mortgages, vested in trustees. There can be no objection that I can see to that form. But some of the other companies have securities of, well, we don't know what the value is.

Q.—They are, at all events, securities as to which Canadian companies would not be permitted to make investments? A.—They would not be permitted to make investments as the law stands now.

Q.—I see that in sub-section 3 of section 10 the provision is that the trustee shall first be approved of by the minister and the trustees may deal with such assets in any manner provided by the trust deed appointing them, but so that the value shall not fall below the value required by this section. What practical difficulty do you find in controlling the nature of the investments? A.—In controlling them, do you mean the nature of the investments?

Q.—Yes. A.—Under the form in which the trust deeds have been drawn they can withdraw any one of the securities and replace them by others.

Q.—The trust deed requires the approval of the minister before they can act under it at all? A.—Yes.

Q.—That would seem to afford you an opportunity of interfering at the threshold. A.—In the case of any new company, but the majority of these companies have old trust deeds and we could not very well change them. The first one I remember had the endorsement of Sir Leonard Tilley upon it. That remains in the original form. Latterly, where new trustees have been appointed, I have been endeavouring to make them a little more stringent so as to have a little better hold upon them.

Q.—I do not know that it will be very soon, but perhaps in time that difficulty will work itself out. A.—I think it probably will. In the case of any new trust deed, where it is necessary to have one, certainly the provisions will be more stringent than they were in the old.

MR. SHEPLEY: I think that is the only subject that I wish to trouble Mr. Fitzgerald about. Subject to what my learned friend may think, and subject of course to any emergency, we may now close the Departmental examination. Then I am hoping, by reason of my interviews with the gentlemen representing the Foresters, that to-morrow morning we can commence and finish up the actuarial

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branch of that inquiry. That brings us pretty nearly to the conclusion of the public sittings; perhaps altogether; that, however, we can discuss to-morrow at greater advantage because I hope, by to-morrow, to have some further word from the Mutual Reserve. I do not think that we shall have to trouble your Honours with public sittings after to-morrow, but we will see how that will be.

JUDGE MAC TAVISH: There is nothing further to-day in the way of evidence?

MR. SHEPLEY: No, we have only the matters of the Mutual Reserve and the Foresters which require public elucidation.

JUDGE MAC TAVISH: Then we will adjourn now until half past ten to-morrow morning.

(At 3.45 p.m. on Thursday, 22nd November, adjourned to 10.30 a.m. on Friday, 23rd November, 1906).

ONE HUNDRED AND SECOND DAY.

MORNING SESSION.

Ottawa, November 23rd, 1906.

POLICY HOLDERS' ASSOCIATION.

MR. SHEPLEY: The first thing to do this morning is to put in the memorial of the Policy Holders' Association, the document which was promised us when we had the pleasure of meeting them some days ago and which has now arrived. I think it would be well if your Honours should hear just how they crystalized their views. (Memorial read, Exhibit 712.)

INDEPENDENT ORDER OF FORESTERS.

MR. SHEPLEY: There are some matters to close up in the inquiry into the Foresters, and I ask Mr. Grant to give us some assistance with regard to that.

MILTON D. GRANT recalled, examined by MR. SHEPLEY:

Q.—You are connected with the Department of Insurance? A.—Yes.

Q.—And have been for how many years? A.—Over six years, nearly seven as a matter of fact.

Q.—And what are your actuarial qualifications? A.—I am a Fellow by

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examination of the Institute of Actuaries, and also an Associate Member of the Actuarial Society of America.

Q.—And you have become a Fellow by passing examinations? A.—Passing examinations.

Q.—Has it fallen within your province within the department to give special attention to actuarial matters? A.—It has, sir.

Q.—And for how many of the years that you have been there? All the years that you have been there? A.—With the exception of the first year and a half.

Q.—For five years and a half, or thereabouts, five years or so, you have given special attention to these matters? A.—I have, sir.

Q.—So far as I am asking you questions, Mr. Grant, I want it to be understood that I am asking you for your personal views, and I am not at all engaging the credit of the department? A.—Quite so.

Q.—Have you considered, during your career as an actuary, the place for friendly societies in the body of insurance of the country? A.—I have given some attention to it. I consider they have a distinct place and that they supply a real need. Do you wish me to enlarge?

Q.—Yes, I want you to explain to us, in outline at all events, the place in the insurance field which it is competent and proper for friendly societies to occupy? A.—Under the system men band themselves together by social ties, and incidental with that goes the insurance feature, and on such terms men are able to get insurance more cheaply than they are under the ordinary commercial plans. So that it has, to my mind, a distinct place to occupy.

Q.—Is it right to say that the true functions of a friendly society is to furnish insurance to its members at or near actual cost? A.—It is.

Q.—And in that respect you consider that friendly societies are entitled to occupy a legitimate field? A.—They are.

Q.—Now, of course—perhaps I should not say of course, I should put it in the form of a question—the point at which to regulate cost is, of course, at the premium? A.—Yes.

Q.—The premium is the contribution which is made, and that premium ought to be sufficient to enable the obligations of the company to be

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carried out? A.—Yes, it determines the whole future financial condition of the contract.

Q.—The premium is the consideration that is paid, and with what is paid the company must, in order to fulfil its contracts, or the society must, in order to fulfil its contracts, have an adequate premium? A.—Yes.

Q.—I should have said, with the premium the obligation must be carried out? A.—Must be carried out.

Q.—What are the elements that enter into the question of the cost of insurance? A.—Chiefly two; the mortality experienced or to be experienced, by the lives, and the earning power of money.

Q.—And that is measured in practice, is it not, by ascertaining, upon the application of the mortality rate, what the obligation may be expected to be when it falls in? A.—It is; yes.

Q.—And taking the present value of that? A.—Taking the present value.

Q.—Taking that as x , the present valuation of the obligations of the society, do you proceed to your other term of your definition, and ascertain the present value of what you are to receive from those who insure with you? A.—Yes.

Q.—That would be y ? A.—Yes.

Q.—In the first place the premium must be enough to provide x ? A.—Yes.

Q.—That is you must have a premium which invested will give you x ? A.—Yes.

Q.—Then you are also to get y and $x-y$ is called what in insurance language? A.—The reserve.

Q.—Where must that come from? A.—That must come—

Q.—From the premiums? A.—From accumulations of the premiums that have not been used in current expenditure.

Q.—But the premium is the source? A.—Precisely.

Q.—And you must maintain your reserve out of premium? A.—Yes.

Q.—It follows, does it not, that the less your premium is the greater your reserve must be? A.—It does.

Q.—And it follows that the greater your premium, the less reserve you have to carry? A.—You are speaking now with regard to—

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Q.—I am speaking absolutely and in the simplest terms of the problem? A.—Yes.

Q.—Without complicating it with anything else? A.—Then I assent.

Q.—If $x - y$ is the reserve, then as you diminish or increase y , you will increase or diminish the reserve? A.—You will.

Q.—That is the difference? A.—Yes.

Q.—Now the x —I am going to use that term for convenience— x , which is the present value of the liability upon the policies—that is if you have once determined your rate of mortality—that is a constant? A.—Yes.

Q.—That is a thing that does not vary? A.—It is a constant at the time when the policy is issued. Of course it varies from time to time thereafter as the insured gets older.

Q.—No doubt, but that at the time the policy is issued is a thing you ought to be able to demonstrate with mathematical certainty? A.—Yes.

Q.—Is there a constancy with regard to y as well? A.—There should be; that is to say at the time when the policy is issued there should be an exact equivalence of value between x and y , and y may be broken up into its constituent part of the annuity upon the man's life and the premium, so that your annuity being fixed, and your x being fixed y must of necessity follow—I do not mean y —I mean the other constituent to y , that is to say the premium.

Q.—Then tables of mortality have been devised, with what object in view, having regard to the elements of this problem? Mr. Hunter asks me to put this germane question to you; if the true premium is collected the reserve will take care of itself? A.—It will, but I wish to qualify that by saying that the management must be precisely right before that can be the case, and I should like to calculate the reserve now and then to see that it was there.

Q.—To see that you had it? A.—Yes.

Q.—There are other matters which perhaps we shall have to discuss a little more in detail, which will enter into the answer to that question. Then I was about to ask you about the tables of mortality. What is the functions which tables of mortality fill in the problems which we are discussing? A.—Well they lay down a standard by which may be measured the liability of which you spoke, first of all in determining the premium and secondly

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in calculating the reserve from time to time required.

Q.—I should like to analyze that a little more closely, so that we may have clear ideas with regard to it. Does the table of mortality enable you to compute the present value of your obligation? A.—In combination with the rate of interest it does.

Q.—The rate of interest of course is necessary in order to the handling of the fund that you are creating on the premium? A.—Yes.

Q.—Well then upon what considerations are mortality tables supposed to be based? A.—They are based on actual fact. All mortality tables which are of any value at all, so far as insurance experience is concerned, are based upon actual fact connected with such insurances, and having an empirical basis, as it were, for their foundation, they are peculiarly applicable, unless there is some disturbing feature which renders them not so.

Q.—What tables are the well known, tables, first take commercial insurance? A.—In Canada here the H.M. Table of the Institute of Actuaries, now rather an old table, but up to this point of time the standard; the O.M. Table of mortality, which is the result of an exceedingly valuable more recent investigation, in the United States the American Experience Table, and what is known as the Actuaries' Table, an old English table which goes back of the H.M., still used very widely, and the legal standard in several states.

Q.—Then before going into any of those in detail at all, is there any mortality table known—I mean is there one in general use in respect of friendly societies? A.—There is. There is the National Fraternal Congress on this continent very widely used indeed. That experience was made up, partially at all events, from friendly societies' experience,—friendly societies operating in Massachusetts chiefly,—combined with those of two large fraternal orders, the Royal Arcanum and the Pilgrim Fathers, if I recollect. There is also a table which has been recommended by the Inspector of Insurance for Ontario, the Canada Life Ultimate Table, which runs very nearly the same as the National Fraternal Congress.

Q.—Has that table any legislative authority behind it in Ontario, or is it just a recommendation made by a

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man of experience and skill? A.—It has no legislative authority behind it.

MR. HUNTER: It is made the Government standard in Ontario for new friendly societies. It has that authority.

MR. SHEPLEY: Q.—Mr. Hunter informs us,—and no doubt he is very well informed on the subject,—that it is made the standard in the province of Ontario for new friendly societies?

A.—Well, I was under that impression until the other day, when Mr. Hodgins denied that entirely, and I looked it up, and I was unable to find that it had been made the standard. It is not the standard so far as fixing the reserve is concerned.

MR. HUNTER: No because there is reserve required by the Ontario Act. Here is the authority.

MR. SHEPLEY: We will see what the provision is. We commence at the beginning of the section, and it will be placed on the notes. "When and so long as any other province of Canada—

MR. HUNTER: That is not it.

MR. SHEPLEY: But I have to get down to it.

MR. HUNTER: These are not dealing with the same matter. This is an Ontario applicant, and this is a foreign applicant. These are not all cumulative do you see.

MR. SHEPLEY: I thought these were all ranged under this proviso.

MR. HUNTER: They are dealing with societies incapable of legislation. These have no connection with this.

MR. SHEPLEY: I am going to skip all this. I wanted to read the section. I did not want to commence after a colon, I wanted to commence at the beginning. "When and so long as any other province of Canada by virtue of reciprocal law admits to that province upon the like terms as in this section specified friendly societies incorporated by Ontario, the friendly societies of such province may be admitted to registry upon due application and compliance with section 41 as to deposit, provided that no applicant under this clause 6 shall be admissible to registry, initial or renewed; (g) Unless the applicant body when the application is made after the 30th day of June, 1898, provides for its contracts upon lives to at least the extent of collecting from these members premiums respectively not less than those set out in schedule A to this Act, and is collecting in addition to the said premium such further sum as is reasonably sufficient to pro-

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vide for the expenses of management." That is the clause. Is it suggested that that applies to domestic companies?

MR. HUNTER: There is a similar provision providing for the incorporation of domestic societies. I cannot find anything further about it just now, but that is my recollection of it. What I understand is that unless they come up to that incorporation is not given by the department.

MR. SHEPLEY: That would be by some departmental rule.

MR. HUNTER: Yes, I think it is somewhere in here, but I cannot lay my hand on it just now.

MR. SHEPLEY: Then schedule A to the Act which I now show you is added, "Net level premium for all life insurance of \$1,000."

WITNESS: Yes.

Q.—Is that the table to which you refer? A.—I think so.

Q.—That is not a table of mortality apparently, but it is a premium rate? A.—It is a table of premiums, I presume deducted from some—

Q.—From some mortality experience? A.—From some mortality experience.

Q.—You do know as an actuary that it is the Canada Life Five? A.—I believe it to be.

Q.—Are those all the tables that you are aware of in general use in respect of friendly societies? A.—They are, yes. Wherever the actual experience of an order is not itself used, and that can only be used under restrictions.

Q.—Do you know anything with regard to the mortality table for fraternal societies in Great Britain? A.—There are absolutely no regulations governing them on the part of the state. They use whatever tables they please. Some of them use the H.M. Table; and the tables regularly used by insurance companies. Others of them, like the Manchester Unity of Oddfellows, use tables deducted from their own experience, in part at least.

Q.—Then your table of mortality is supposed, I would take it, to enable you to arrive at the expectation of life, so that you may ascertain with certainty what your obligation is? A.—As a matter of fact the expectation function is not used, but I understand your meaning, and it is equivalent to that, or roughly equivalent to that.

Q.—You want to use the table, at least I suppose one of the purposes

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for which you use the table, is to enable you to ascertain—? A.—Exactly, only we do not work on the expectation of life. We work on the probabilities of life from year to year.

Q.—Do you in the same way, and subject to the same qualifications, derive from your mortality table the information which will enable you to say what the present value of the future premiums is? A.—We do.

Q.—Then the mortality table is of course a prime essential, and accuracy in that is a prime essential in the problem you have set yourselves to work out? A.—Unquestionably; it is fundamental.

Q.—Let me ask you another question with regard to mortality tables; is there a difference between what is called an aggregate mortality table and a select mortality table? A.—There is.

Q.—Will you describe that difference, because that may be of some importance in this particular inquiry? A.—It has been found that the time which has lapsed from the date of insurance affects the mortality rate; that is to say the medical examination succeeds in weeding out a lot of bad lives, and as a consequence your mortality during the first few years is very light. However, the effect of the medical examination gradually wears off, and you run into a higher rate of mortality at the end of that time, a higher rate frequently than is experienced by the average of the community as a whole. Now, that is the basis upon which an aggregate table is made up, that no matter what the time of entry may have been, all lives of the same present age are grouped, that is the time for which they have been insured has been disregarded, and they are all lumped together, and the average of them is the mortality rate for that age.

Q.—That is what you mean by an aggregate table? A.—Yes.

Q.—In the first place that groups together lives at a particular day, without regard to the date of their entry? A.—Yes.

Q.—And without regard therefore to their recent selection? A.—Yes.

Q.—The result of that being to disregard altogether the selection, and the early low rate of mortality as compared with the later higher rate of mortality? A.—Yes.

MR. HUNTER: It does not disregard the selection in the way you put it. It disregards the effect of selection among the selected lives.

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MR. SHEPLEY: Q.—Will you modify it as Mr. Hunter says? A.—I do not care to modify it otherwise than I have done. I think I have given it a proper definition.

Q.—All the lives are selected because they all pass medical examination, but the fact that some of them have recently passed that selection is disregarded.

MR. HUNTER: Under both tables you are dealing with the same body of lives. You have the same mortality from the group, and the same premium income. The statement seemed to be broad that the effect of selection was rejected by using the aggregate table.

WITNESS: I never wished that to be implied.

MR. HUNTER: That is the way I took it.

WITNESS: I never said that.

MR. SHEPLEY: Q.—You do not in constructing an aggregate table have regard to the fact of all the lives, say forty years, if you are taking those, some have been recently selected? A.—10,000 lives insured a year ago are combined with 10,000 lives insured two years ago, and another 10,000 insured ten years ago but all of the same attained age, are lumped together and the result is an aggregate rate of mortality at that age.

Q.—What is the difference between that and the select table of mortality? A.—The select table on the other hand proceeds by having regard to the time that has elapsed since the date of insurance as well as having regard to the age; so that instead of simply having one mortality table as a result of your calculations, you may have five, or ten corresponding to whether the selection runs out in five years or ten years respectively, separate mortality tables, running finally into what is called an ultimate mortality table.

Q.—What do you mean by an ultimate mortality table? A.—That is the rate which is experienced after the effect of selection has worn off.

Q.—That is the ultimate rate of mortality? A.—Yes.

Q.—As against the select rate of mortality? A.—Yes.

Q.—Now what is the sanction of custom with respect to these two classes of tables? A.—They are both extensively used, the aggregate form of table being most used in this coun-

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try, but so far as theoretical sanctions are concerned, the select table has it all its own way. It is the proper basis upon which to work, both in calculating reserves and premiums.

Q.—You say that from a theoretical standpoint the select table is the proper table to use? A.—It is.

Q.—And could you tell us in a few words why? A.—Because it is in close conformity with fact.

Q.—I expected you would say that, because it is in closer conformity with fact than the aggregate table? A.—It is.

Q.—And after all the whole theory of your tables is that they do conform to the fact? A.—Certainly. Will you allow me to add that aggregate mortality tables are largely used because many of them conform to the result given by a select table, and therefore since it is infinitely less labor to conduct a valuation by an aggregate table, they are used because of the results they bring out being closely in conformity with the select table.

Q.—Tell us now a little about these various tables that you have given us, first of the ordinary insurance company and next of the fraternal? A.—The character of the tables?

Q.—Yes? A.—Taking first the H. M. table, it shows a rate of mortality that is considerably higher than that of the later experience, the O. M. table.

Q.—To what circumstances is it owing that that produces a higher rate of mortality? A.—It is owing I think chiefly to the fact that longevity has increased, and to some extent possibly in the different method of construction of the H. M. table.

Q.—Was the H. M. table originally devised having regard to the recent passing of the lives which went to make the table up? A.—It was not.

Q.—That would be another circumstance, would it not? A.—Yes, except that in the O. M. experience we have a choice; we have both the aggregate and we have the select. I had in mind the O. M. aggregate; what you have just said applies to the select.

Q.—The H. M. table was constructed at a time when people did not for the purposes of the table take into effect the recent passing of the medical examination? A.—No.

Q.—It was a healthy male table? A.—Yes. At a later time an actuary did take it into account and con-

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structed select tables for the H. M. experience.

Q.—So that even in the H. M. you have introduced the element of recent selection? A.—Yes, The H. M. mortality is higher for another reason, that it relates to insured lives prior to 1863, and many of them run into the latter part of the century before last, and at that time medical examinations were not nearly so thorough, and were often dispensed with altogether, which would be another reason why the rate would be higher.

Q.—Then coming to the next table you spoke of, the O. M. table? A.—That is a table that is, as I said before, exceedingly valuable on account of the authenticity of the information behind it, and the great bulk—

Q.—Let us know what information is behind it? A.—It represents the experience of over sixty companies, from 1863 to 1893.

Q.—Is that a sufficient length of time, 30 years? A.—Oh certainly.

Q.—That is a sufficient length of time? A.—Provided you have had enough exposed to risk during that period.

Q.—Then with regard to the bulk of the experience— A.—There were over a million lives involved in all.

Q.—And under conditions which are normal having regard to insurance? A.—Which are normal, because if anything was abnormal about it they rejected the life altogether from consideration.

Q.—Then with regard to the O. M. table you say that is not so extensively used as the H. M. table but you think you speak with certainty with regard to its superiority? A.—I do. The fact of its not being widely used is easily explainable. It was only issued two years ago. It is a new table. People have not had time to adjust themselves, and once you have a mortality table in use it is a difficult thing to displace it on account of the great number of calculations that have been made. It is a very laborious task to make the calculations.

Q.—I suppose too that it is not desired to disturb the economic conditions which the use of the other tables brought up? A.—Quite so.

Q.—What other tables were there that you mentioned? A.—I have mentioned the American Experience table, which was framed from the experience of the Mutual Life of New York. It has not the same—I am speaking now

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as an actuary—it has not the same validity as these other tables because the method of its construction is somewhat obscure. However, it produces quite high reserves and premiums that are in conformity, roughly speaking with other tables, and therefore it is used.

Q.—Then was there another that you mentioned? A.—The Actuaries or Combined Experience table, which is a British experience, antedating the H.M.

Q.—We can pass that over, I suppose, as not being a practical question here to-day? A.—Curiously enough it has never been used in England to any extent, but it has been largely used by Americans.

Q.—It is not a practical question in Canadian insurance? A.—No.

Q.—Then we will not take time over it. I think those are all you mentioned with respect to the ordinary insurance companies? A.—Yes.

Q.—With respect to the fraternal societies, you gave us the two, the National Fraternal Congress and the Canada Life Five I think? A.—I should modify that by saying that I do not know that the Canada Life Five has ever actually been employed in a valuation. It may have been, and no doubt has been, but the National Fraternal has been employed repeatedly.

Q.—What is the origin of the National Fraternal, and what experience goes to make that up? A.—I think I said before that it was constructed from the experience of Massachusetts friendly societies, together with the experience of two very large Orders in addition, the Royal Arcanum and the Pilgrim Fathers.

Q.—Yes, you did tell us that, and that has been given the name of the National Fraternal Congress. Why does it have that name? A.—Well, the word Fraternal is easily accounted for. It is national because a great many orders contributed to it, and it is supposed to be applicable to the country as a whole, and the word Congress is in the phrase because it was given to the world through the Fraternal Congress.

Q.—There was a congress of fraternal societies held? A.—Yes.

Q.—At which this was promulgated? A.—A committee was organized to look into the whole question of the mortality for fraternal. It did so and reported, bringing in this table. That was in 1900 I may add.

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Q.—And that is, I think you have already said, widely used among fraternal societies? A.—It is sir.

Q.—Then with regard to the other one, which you spoke of as Canada Life Five, will you tell me what the origin of that is? A.—That is an aggregate ultimate table constructed from the Canada Life's experience from its inception in 1848 I think. I just forget the terminating date; at all events it was the fifty years' experience of the Canada Life Assurance Company. Those tables are in three forms; first an aggregate table including the whole body of lives, secondly a select table, and thirdly—or rather it is not thirdly—the select tables run into this ultimate table which we call the Canada Life Five.

Q.—And the Canada Life Five being the ultimate? A.—The ultimate.

Q.—Will you tell us next what feature or features, if any, differentiate fraternal insurance in respect to these matters we are discussing from the ordinary insurance? A.—Insofar as fundamentals go there is no difference of which I am aware; that is lives are the subject of risk, and the liability of paying a certain sum upon a certain contingency will be the same in both cases; perhaps a better class of lives is introduced into one than into the other. That may or may not be so according to circumstances. In other respects, as to expense, the fraternal insurance has the advantage; it can conduct its business, and does commonly conduct its business on a more economical basis.

Q.—As to expense? A.—As to expense. It is not common for it to pay any profit to the insured; it is not common for it to have to pay dividends on capital stock, and therefore on this account there is less expense.

Q.—And then, I think, besides, perhaps you might add to it, speaking practically, that there are no surrender values to the insurance which they issue. A.—As a usual thing, and especially in this country, there are no surrender values.

Q.—All those circumstances would tend to differentiate a Friendly Society from the ordinary life insurance company? A.—They would.

Q.—Another circumstance is pointed out to me as part of the expense; they do not employ agents to canvass. A.—That is not altogether true. A good many of them have canvassers, but it is true in part,—in great part.

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Q.—Are these circumstances legitimate circumstances to be taken into consideration when you are dealing with the two classes of insurance?

A.—Unquestionably.

Q.—They are properly to be taken into consideration in arriving at a solution of the problem we are discussing now. A.—They are.

Q.—That is the soundness of any particular system of rates. A.—Yes.

Q.—And to the extent to which they legitimately enter into the question, effect ought to be given to them in the construction of any table of mortality, any table of rates, and any table of reserves. A.—Undoubtedly.

Q.—Have you made a study of that?

A.—Do you mean of the precise effect?

Q.—I should not perhaps have put it to you in that general way. We requested you, did we not, to do certain work for us in connection with the investigation of the Foresters' Society? A.—You did, sir.

Q.—And you have spent some considerable time at that? A.—I have.

Q.—With the results that you have applied various tables of mortality to the construction of premium rates and reserves? A.—Yes.

Q.—Having regard to the circumstances that differentiate this sort of insurance from ordinary insurance? A.—Yes.

Q.—In considering the Foresters as an organization by itself a friendly organization by itself, what two circumstances, if there are two circumstances, of main importance have you had to deal with? I should anticipate your answer from the general answers you have given me. A.—Mortality and the influence of secessions, or lapses, as they are commonly called, upon the financial standing of the Order.

Q.—Mortality we understand. Now, when you speak of the influence of secessions or lapses, tell us briefly what that involves. A.—Under the fraternal contract there is, as we said before, usually no surrender value, and therefore, when a life leaves the organization and abandons his insurance there will be a profit to the Order of his premiums, less what they have expended in expenses in getting them and what they have paid in death claims in respect of his class. As a usual thing there should be some profit from that source.

Q.—That is what you mean when you say the influence of secessions or lapses. That will give an additional

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profit which the ordinary company would not have, and in respect of that profit there is to be a modification of what you would do without considering that. A.—Yes.

Q.—What bases of mortality have you assumed in what you have done?

A.—In respect of the valuation of the business of the Order?

Q.—Yes. A.—I employed several bases; first the O. M. table, allowing for the actual lapse rate of the Order itself for the five years 1901-5, as investigated by myself. Then, in order to see what the affect of allowing for lapses would be, I valued by the O. M. table without allowing for lapses. Further I valued by the Canada Life Select Table, with allowance for lapses, choosing that basis because possibly the experience of the Order might approximate to the Canada Life Select Table.

Q.—Before leaving that, have you any information with regard to that, with regard to the closeness of resemblance between the experience of the Foresters and the Canada Life Table? A.—Well, I was informed that it did approximate closely, and I regarded it as not impossible that it might.

Q.—And in using that you made allowance for secessions? A.—I made allowance for secessions.

Q.—What other table did you value by? A.—I also valued by the National Fraternal Congress Table, using that table out of deference to the respect in which it is held among fraternal orders themselves.

Q.—What rate of interest did you assume in doing this work? A.—I used 4 per cent. throughout.

Q.—Is that as compared with the statutory requirement in the case of other companies, treating the Society fairly? A.—It is, because the ultimate rate of interest by 1915 from all companies will be $3\frac{1}{2}$ per cent., and is now $3\frac{1}{2}$ per cent. for business written since 1900, and I think that 4 per cent. is as large as may be safely taken into account, regard being had to the circumstances.

Q.—Let us get to what you have done. What is the bulk of business in force in the Order? A.—The bulk of the business in force is, what they call their ordinary benefit, which consists of an insurance payable by instalments at 70, so far as practice is concerned, at all events.

Q.—When you say so far as practice is concerned, is there a reservation

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there in your mind? If so, I want you to explain that. A.—I understand that the intention of the Order is not to pay it universally at 70; that is as an annuity between 70 and 80; but in certain cases, at all events, to pay it only on actual disability, but I understand that for the purposes of practice disability is regarded as setting in in all cases at 70.

Q.—Supposing disability sets in before 70, then what? A.—Half the sum is payable and the balance is payable at death or at 70.

Q.—Then with respect to that business, business which had those elements in it, how does that compare with your computations for reserve with ordinary life business? A.—It, of course, will give a higher reserve.

Q.—Is it legitimate and proper that it should? A.—Certainly. There is a greater benefit given.

Q.—A greater benefit given; that is the obligation is higher.

Q.—The obligation on the Association is higher than the ordinary life policy? A.—Yes, I should add that all premiums cease at 70 as well.

Q.—Then at disability, 70—or at 70 which is assumed to be treated as disability *ipso facto*, arriving at 70 years of age, what is done then by way of benefit? A.—The man first receives, if he has a certificate for \$1,000, he receives \$100 and \$100 each year thereafter until the whole is paid. If death occurs before the whole has been paid, then the balance is paid in a lump sum at the death.

Q.—What volume of insurance is in force in the Foresters' Order? A.—As reported to us, somewhat over \$250,000,000.

Q.—What proportion of that is of the class that you speak of? A.—An amount of less than two millions. The great mass of it.

Q.—Have you in your computations disregarded the other methods or have you taken them into consideration? A.—The other classes?

Q.—Yes, the other classes? A.—No, I have taken them into consideration, all with the exception of \$2,500 term insurance.

Q.—You have disregarded that? A.—Absolutely disregarded it. It is so small the reserve on it would be almost nothing.

Q.—It is a negligible quantity? A.—Yes, it has only been issued two or three months.

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Q.—Then what are the other classes and let us know what you have to say about those? A.—Well, they have in addition to what we have already mentioned, an expectation endowment benefit.

Q.—What does that mean? A.—It is an endowment payable at the expectation of life, upon attainment of that age.

A.—Without regard to whether the person survives that age or not?

MR. HUNTER: It would be payable as a death claim if he did not survive to that age? A.—Yes.

MR. SHEPLEY: But it is payable at that age if he survives.

MR. HUNTER: He would have to survive to get it at that age.

MR. SHEPLEY: I think your point is well taken, Mr. Hunter. I must be a little more perspicuous in my way of putting it. You have dealt with that, at all events separately. A.—Yes.

Q.—And you have not left that out of the account in what you have done? A.—No.

Q.—Then is there another class still? A.—Well, properly it is a part of the first mentioned class; that is the old age disability annuitants; persons who have actually passed beyond 70.

Q.—And are in receipt of these yearly payments? A.—Yes.

Q.—You have separately computed as to those, have you? A.—I have.

Q.—Then there is some business of a hazardous and extra hazardous class. What have you done with regard to that? A.—I have done nothing with regard to that. The Order charges an additional premium in all cases where the life is hazardous. Such additional premium being presumed to be sufficient to cover the extra risk. I have assumed that it was. I had to assume that of necessity, having no data.

Q.—You have assumed that it was and treated the premium apart from the extra premium of the insurance in respect to that, as part of the bulk? A.—Yes.

—O. Is that a fair way to deal with it in your view? A.—It is favorable to the Order.

Q.—Then how have you dealt with the liability which you have said exists in case of disability, prior to the age of 70? A.—That also I had to disregard, having no tables applicable at all to the requirements.

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Q. And is your disregarding of that also favorable to the Order? A.—It is distinctly so.

Q.—Then what did you do with regard to the mortality experience of the Order itself? A.—Well, my first intention was, if possible, to take out the experience of the Order with regard to mortality, on the select basis, and use it, but I found that, from the condition in which the data was found to be, we could not proceed thus and we had to abandon that.

Q.—When you say the condition in which the data were found—the data furnished you? A.—By the Order itself.

Q.—Do you say that was incomplete or inaccurate or both? A.—It was inaccurate and it could not safely be trusted for making out select rates of mortality. There would also be another objection to using it, namely, that you require a great extent of data for select investigations.

Q.—Then, did you find that the Order had already a mortality table? A.—It had.

Q.—Supposed to be based upon its own experience? A.—Yes. And experience of the years from 1894 to 1898 inclusive, made out by their actuary; at that time Mr. Rea.

Q.—That is what you understood? A.—Yes.

Q.—Was it an aggregate or a select? A.—It was an aggregate table.

Q.—Then what was the use that was made of that table, according to the information you had? A.—That table was used afterwards by Mr. Rea in computing premiums and in comparing them with those which were actually in force in the Order and in trying to substantiate that the latter were sufficient.

Q.—Are you able to make any statement, to express any opinion with regard to the value of the work based on that table? A.—I would never myself think of using it for the purpose for which it was used.

Q.—Why? A.—Because the resulting mortality rates made out on that aggregate basis are too favorable to be used. That is to say, when a mortality table on the aggregate basis is so favorable as the one shown by Mr. Rea, it is an improper one to be used, because it means that the true rate of mortality is not shown. The rate of mortality as brought out by a select table, with due regard for the time elapsed from the date of insur-

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ance, would be a proper basis upon which to proceed.

Q.—But with regard to the aggregate table which disregards that element, you say if it brings out a peculiarly low rate of mortality it is not to be trusted? A.—It is not; and one would suspect immediately what is known to be the fact in this case, that the body of recently selected lives is very great, which brings up the average at each age, especially at the young ages.

Q.—Another thing about this mortality; of course everybody dies sooner or later, and he is not prevented from dying by insuring. If you take 100 people and insure them this year, at the end of a certain number of years they will all be dead? A.—Yes.

Q.—That, upon a law of average, can be accurately stated for a sufficient number of persons? A.—Yes.

Q.—Then what about the tables of mortality in the interval between the date of entry and the date when the last of those lives runs out? A.—Well, they may vary in an infinite number of ways. That is, a large percentage of the lives may die in the early part of the whole course, and correspondingly, a few thereafter. I am speaking now of possibilities. On the other hand they may die with great uniformity throughout the whole period or the mortality may be lumped towards the end of the period.

Q.—Those are possibilities. Then does the adoption of the select table reconcile those various possibilities? A.—It does.

Q.—That is the purpose of it? A.—That is the purpose.

Q.—Will an aggregate table do that? A.—It will not do it where the entrants have been numerous. It will altogether strengthen the fact of the medical selection.

Q.—Well, then you have said that by the use of an aggregate table you get low mortality rates and you would not think it safe to use it. What did you find with regard to the rates deducible from Mr. Rea's table? A.—The rates of premium?

Q.—No. The rates of mortality? A.—The rates of mortality are very low.

Q.—Now, do they compare, for instance, with the rates of the National Fraternal Congress? A.—At the ages where it is material they are very much lower. Lower than the Canada Life also.

Q.—And what about the O. M. aggregate? A.—Oh, of course, they are

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very much lower than the O. M. aggregate.

Q.—That, you say, brings out the lowest mortality brought out by any matured experience? A.—Yes.

Q.—Then you have made a table here which I will just put in without anything more. Mr. Hunter is asking, and let us deal with it at once, for the mortality table which you attempted to construct out of the data which you say you found insufficient and inaccurate? A.—I have it here.

Q.—Is it of any value? A.—It is not.

Q.—You say so with clearness and certainty? A.—I say so deliberately. This is the table which I constructed from the experience of the Foresters from 1901 to 1905 inclusive. It is upon the aggregate basis. My purpose in making it out was to compare it with Mr. Rea's table solely. I had no intention of using it for premiums or reserves, because it is subject to the same objection that I have stated against Mr. Rea's table, namely, that it includes this large recently selected body of lives, which obscures the rate of mortality and hides it as it were as you pass from age to age and it is an unsafe progression.

Q.—You have seen this, Mr. Hunter?

MR. HUNTER: Yes, but we have not a copy of it and we would like a copy of it.

MR. SHEPLEY: I do not like to let material go in which is misleading.

MR. HUNTER: The witness says it is properly prepared as an aggregate table, as I understand it, from that material? A.—If you will allow me, I must add further in justice, that I could not reconcile it with accuracy of data.

MR. HUNTER: That may be, too.

MR. SHEPLEY: Then I do not propose to put that table upon the record, subject to what the Board may rule. I do not want to have upon the record what is misleading and inaccurate.

Q.—Then this little table gives a comparison of the rates of mortality brought out by Mr. Rea's table, the rates of mortality according to the National Fraternal Congress Table and the rates according to the O.M. Aggregate Table. (Exhibit 713.)

MR. HUNTER: Before we leave the other matter, I really think we should have that upon the record, Mr. Shepley, in some shape where we can get at it. It is an aggregate table of mortality prepared from our

own experience during the last five years.

MR. SHEPLEY: If you could add to that, that it has the sanction of any evidence that is accurate, based upon accurate data, I would not quarrel with that a moment, but I do not desire to encumber the record with what, upon the evidence as it stands is misleading.

MR. HUNTER: It is misleading for a particular use, but it has its value as an aggregate table, as I understand Mr. Grant's evidence.

MR. SHEPLEY: Mr. Grant says it has absolutely no value.

MR. HUNTER: I will read what Mr. Grant says about it: "the available data was sufficiently extensive to afford a fair basis for the determination of rates by the aggregate method."

WITNESS: I still say that that is quite consistent with anything I have said this morning.

MR. HUNTER: Therefore the table has some value as an aggregate table of mortality.

MR. SHEPLEY: Let us know what that is? A.—I should never think myself of publishing that table.

MR. HUNTER: We do not ask that it be published, but to get it so that we can have access to it and get a copy of it.

MR. KENT: I understand that is a select table, is it not?

MR. SHEPLEY: This is something that Mr. Grant started to do for the purpose of getting the actual mortality of the Foresters. He was proceeding upon certain data furnished him and he found those data so inaccurate and so impossible to found a table upon—

MR. HUNTER: I do not agree with that statement.

MR. SHEPLEY: That he does not put that table forward as being of any value.

MR. HUNTER: That is not a fair statement, if my learned friend will excuse me, as to what this table is. Mr. Grant makes it clear that for the purpose of deducing a premium rate we should not use an aggregate table on account of the influx of new members. But he has stated with reference to this table that the available data was sufficiently extensive to afford a fair basis for the determination of rates upon the aggregate method. Now, Mr. Rea did that for us in 1902 on the experience of '94 to '98. We ought to be enabled, for our own use and guidance in checking Rea's work

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and the value of Rea's aggregate table, to have access to that table. It is prepared from the material submitted by us. We do not ask that it go on the record as our mortality, but to have it put in as it is, an aggregate table prepared from that data. I think we are entitled to that.

WITNESS: I would like to say, Mr. Hunter, I said that the available data was sufficient for making out rates of mortality upon the aggregate basis upon the assumption that the data is correct. If the data is not correct, if it is open to suspicion in any regard, of course that vitiates the whole thing.

MR. HUNTER: Certainly, no one will dispute that.

MR. SHEPLEY: That is all that the document says, that the available data are sufficiently extensive.

WITNESS: Giving credence for the moment to the authenticity of it.

Q.—And that is only an aggregate ascertainment and not a select ascertainment?

MR. HUNTER: We say that and we know it.

MR. SHEPLEY: I am within the judgment of your Honours.

JUDGE MacTAVISH: Go on in the meantime and we will leave that aside. We will see later on what its value is, if any.

MR. SHEPLEY: Now what relation is there between a table showing unduly low rates of mortality and the ascertainment of a reserve in respect of the business? A.—Well, there is no fixed relationship; it may or may not show higher or lower reserves. But, as a matter of fact, Mr. Rea's table shows very low reserves, which would be an additional reason for not using it for valuations. The fact of the matter is that one should only use an aggregate table because of its close approximation to a select table.

Q.—And not because of its inherent accuracy? A.—Its inherent qualities or accuracy.

Q.—Then I think you said your data would not enable you at all to make an investigation upon the select basis? A.—No. Perhaps I might add to that, as to mortality, that there should be sufficient scope between the various bases I have chosen for any deviations in the Foresters' experience from normal experience, because there is quite a wide difference from the O.M. table on the one hand, which is the least favourable, and the

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Canada Life on the other hand, which is the most.

Q.—Is there anything that you are aware of in the history or experience of the Foresters which would make for a permanence in low mortality?

A.—None that I was able to see.

Q.—Does any reason suggest itself to your mind at all? A.—None. So long as it is doing business as it is today, its mortality should always be good. On the other hand, I do not see why, when you give due effect to the time that insured persons have been in the society, I do not see why the rates of mortality should not be very near those experienced by other institutions.

Q.—Which similarly have the same influences operating? A.—Yes.

MR. KENT: That is a man does not live any longer because he is a Forester. A.—I believe that it is claimed that he does, but I have not been able to discover it.

MR. HUNTER: If it keeps him from drinking, he may.

MR. SHEPLEY: Not always, Mr. Hunter.

Q.—I want you to take up next, if you please, Mr. Grant, the lapse experience. What have you done with regard to that? A.—The Order made returns to the Commission necessary for investigating the lapse element, and I collated that experience and brought out the lapse rates which prevailed for the years 1901 to 1905 inclusive.

Q.—And you have prepared a table which shows these secession rates or lapse rates upon a select basis? A.—I have.

Q.—What do you say with respect to the accuracy of this from the data which you have, do you speak of it as being to the best of your ability and to the best of your belief and opinion, accurate work? A.—In so far as it depended upon myself, yes.

Q.—That is select secession rates based upon experience 1901 to 1905, taking the ages of entry 20, 25, 30, 35, 40, 45, 50 and 55, and duration from one to fourteen years. (Exhibit 714.) Now what does that show first, speaking generally, as the effect of secession? A.—It show a relatively high rate during the first six or seven years and a quite rapid decrease from that to almost no rate at all after the fourteenth year for the youngest age.

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Q.—And after the fifth or sixth year—the fifth year for the highest age. A.—Well, after the eighth year, the seventh year.

Q.—I mean for the age 55 it is less than one per cent.? A.—Oh, yes; the percentage would be very small.

Q.—Let me see what the significance of that is? That indicates that while there are lapses in the early history of the insurance, those lapses cease later on after the policy has persisted for some time? A.—Yes.

Q.—And in that way the benefit of these lapses disappears? A.—Disappears.

Q.—What else do you say about it, speaking generally with regard to the different ages, or in any respect? A.—It would show that the great mass of the lapses—perhaps this is repeating what you said—took place during the first six or seven years and a very small percentage after that time.

Q.—I want to illustrate this to your Honours for a moment. It is a feature the Foresters rely very largely upon. You see how the table runs down to less than one per cent. and similarly so with the older ages. (Refers to Exhibit 714.) Then, were you able to make a comparison of the table that you so prepared with Mr. Rea's table of select secession rates? A.—Yes, Mr. Rea's table of select secession rates is derived from the experience of the years 1894 to 1898, and published in the Supreme Court proceedings of the Order. I derived them from that source.

Q.—I will put this in then, this is what you took, Mr. Rea's table according to that publication? A.—Yes. (Exhibit 715.)

Q.—Now, what does a comparison of your table of secession rates with the Rea table disclose? A.—Mr. Rea and myself are in agreement in saying that the lapses occur, at the youngest age, altogether within the first 15 years for practical purposes. But we are at variance—that is to say, the facts are at variance—with regard to the distribution over those 14 years. In my table the lapses are large during the first six years, and small thereafter, as already said, and in Mr. Rea's there is quite a percentage over the sixth and seventh year.

Q.—Are you able to base any conclusion upon that? A.—Well, the lapse rate has changed very greatly from the period when Mr. Rea made

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his investigation and the period which mine covers.

Q.—Changed in what direction?

A.—It is smaller on the whole, but its distribution has changed very materially.

Q.—Do you base any conclusion upon that or can you assign any cause to that? A.—I think the reason for it is apparent. The rates were raised in 1899—the premium rates—and so the old members of the Order were paying less than new members and felt they were getting an advantage and thought they would pay them and stay in the Order. They were more persistent by reason of that. The lapses are occurring largely among those who joined since 1899.

Q.—Do you find that that is so as a fact? A.—As a fact, yes, upon the data.

Q.—Then does this comparison between these two tables enable you to say anything with regard to the propriety or safety or otherwise of taking lapse rates into consideration in arriving at reserves and premiums? A.—It shows that if you had chosen Mr. Rea's basis for computing premiums, the rate of lapse has become somewhat less since that time, and you would have chosen too large an element. You would find your premiums would be deficient by reason of the lapses not being as great as assumed.

Q.—By reason of there being less profit from lapses than had been assumed? A.—Yes, and it shows generally that the lapse rates within a very short period may change quite radically.

Q.—Then you have illustrated from another table of lapses; what table is that? I see it is said to be "Fraternal Lapse Rate from Mantz on the Effect of Lapses." A.—That is from a book entitled "The Effect of Lapses," written and published by Isidor Mantz, an American writer on insurance.

Q.—What is the experience foundation for that? A.—It is based on the experience of a large number of Orders and is necessarily an average of the experience of those Orders.

MR. HUNTER: Are you putting in that table, Mr. Shepley?

MR. SHEPLEY: Yes, I am going to put that in? A.—This is the book from which that is taken.

Q.—"The effect of Lapses on the

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Cost of Life Insurance." Perhaps your Honours would let us consider the book itself as being part of the record as well as the table which is taken from it. The table will be convenient for the purpose of comparison, in the separate form, but I want the publication itself. (Book and table marked Exhibit 716.) Then, Mr. Grant, let us go on next to what you have done with respect to computing the premiums? A.—I computed the premiums for the benefits which the Order is granting upon all of the bases which I mentioned in connection with valuations; the O.M. table with lapse, the O.M. table without lapse, the Canada Life table with lapse, and the National Fraternal Congress table. I may mention that I did not use the National Fraternal Congress table in combination with lapse for the reason that it is regarded as objectionable to use select lapse rates with an aggregate table.

Q.—Now, let me take first the tables that you have framed on the O.M. table. You have divided that table into two parts; first you have treated the insurance as whole life benefit, premium ceasing at age 70? A.—Yes. (Ex. 717.)

Q.—Is that unduly favorable to the Order? A.—Yes.

Q.—In the other table you have put the premiums for the Foresters modified endowment at 70, is that about how they ought to be treated or is it favorable enough? A.—That is undoubtedly, I think, how they should be treated. That is the benefit we spoke of some time ago, the annuity beginning at 70.

Q.—Now, let me take one of these ages. At age 20 under the first method you get \$12.74 without allowance for lapse, \$11.44 with allowance for lapse, or a difference of \$1.30; that is a difference of 10.2 per cent.? A.—Yes.

Q.—Then, treating the insurance as modified endowment at 70 without allowance for lapse, \$13.23; with allowance for lapse, \$11.86; a difference of \$1.37, or 10.4 per cent. That is a fair comparison, having regard to the allowance for lapse in both cases? A.—Yes.

MR. HUNTER: Would you ask, Mr. Shepley, what allowance for lapse, so as to have the record clear?

MR. SHEPLEY: What allowance for lapse, upon what were your allowances based? A.—The actual lapse rates of the Order as found to exist by me for the period mentioned before.

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Q.—And set out in the table which has been filed? A.—Yes.

MR. HUNTER: I thought I noticed, Mr. Grant, that you had gone a little under in order to be on the safe side? A.—In my adjustment of the rates of course.

MR. SHEPLEY: What do you mean by a little under? A.—I mean that, for example, there might be some cases of lapses 20 years after the policy was granted, but they would be such a small proportion of the whole number of lapses that it would not be profitable in any respect to run out your table to 20 years. As a matter of fact for all practical purposes they might be regarded as ceasing at 14 years or 12 years, as the case might be. And also no actuary would ever go above the actual rates. If anything he would go below in his adjustment.

Q.—You want to err on the safe side? A.—On the safe side.

Q.—Then you have made a comparison for the purpose of ascertaining whether your allowing for the effect of lapse rates, as you found them to exist, brings about a greater or less reduction in the premium, than the premium brought about by the Rea abstract? A.—I did examine that point, and I have framed a table illustrating the results, that is to say at age 20 the difference for the whole life benefit was found by Mr. Rea to be 95 cents. That is the difference between the premium, with allowance for lapse and without allowance for lapse; as against the \$1.30 just referred to. That shows generally that as between the two lapse rates prevailing there is considerable modification required—perhaps considerable is too strong a word—some modification required on account of the difference prevailing.

Q.—Then this is the net premium computed after the actuarial investigations of 1898 (Exhibit 718). Then as to the effect of lapse between the Rea abstract and your own work, does that represent and emphasize what you say as to the necessity for caution in making use of it? A.—It certainly does. There is a special necessity for caution in using the lapse rates in making out premiums, because if you have assumed too high a rate of lapse you would be left inevitably with a deficiency.

Q.—Then you have prepared a table also comparing the premiums in force

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in the Foresters with the premiums deduced on the O.M. with and without lapse, the Canada Life select, with and without lapse and the National Fraternal Congress premium? A.—Yes.

Q.—That is table D. (Exhibit 719. Do you make any observation with regard to part of the Foresters' business being upon the old rates? A.—I would illustrate it by citing one age, if you please?

Q.—Yes? A.—At age 25 the premium by the O.M. table making allowance for lapse is \$13.77.

Q.—That is without lapse, is it not? A.—That is with lapse. By the Canada Life select table with allowance for lapse it is \$12.62. By the National Fraternal Congress, no lapse there, \$13.83. Whereas the Foresters' old rate and now in force for the old members is \$7.64 at that age and is now \$10.72 for new members.

Q.—For members coming in since the change in the rates. That is a sufficient comparison for the purpose but there is a comparison at all the ages made in this table D. Then, have you further illustrated that circumstance by constructing a table D-1? A.—Yes. (Exhibit 720).

Q.—What is that? A.—Table D-1 contains the same tables as are given in certain columns of this last table just filed, namely, the rates in the Foresters prevailing before 1899 and now in force for old members, and the final column shows what would be required for the same benefits if no deaths occurred at all, upon absolutely the most favourable assumption that can be thought of, that men don't die at all.

Q.—That is do not die until when? A.—For our purpose, do not die at all.

MR. HUNTER: Do not die until 70. Supposing they do not become claims? A.—They do not die at 70. You then pay them the annuity. After that we do not care whether they die or not.

MR. SHEPLEY: Table D-1 take for instance age 25 on the early premiums of the Foresters \$7.64, and there are two earlier periods both before '99, say the same, \$7.64. The premium required when no deaths occur would alone be \$6.83? A.—Yes, it happens to be below at that age, but at all other ages it is above.

Q.—For instance take 45, \$11.63 for the period '81 to '95 with the Foresters' premium; \$14.83 period '95 to '99; and the premium required, if

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they all live to 70 is \$19.86. Then, Mr. Grant, let us go on to one of the other classes of insurance; expectation of life benefit, what is that? A.—That is a benefit payable when the insured attains his expectation of life according to a certain mortality table.

Q.—And that covers about what volume of the insurance on the books of the Foresters? A.—It is a small amount, a million and a quarter.

MR. HUNTER: Less than one per cent. of the amount in force? A.—Quite so.

MR. HUNTER: Would you mind putting it that way that it would be less than one-half of one per cent. of the amount in force?

MR. SHEPLEY: Yes, I am wanting to bring out that it is very trifling as compared with the total volume, but I do not want to have it supposed that Mr. Grant had overlooked that. Now, you have made a table with regard to the premiums in the case of that insurance as well? A.—Yes.

Q.—And that is table E. (Exhibit 721.) What do you find with regard to that? A.—It shows that the rates the Foresters charge for that benefit were very much lower than the premiums by any of the tables I have employed, lower than the premium is stated by those tables to be.

Q.—What premiums are you speaking of with respect to the Foresters? The present premium? A.—They have discontinued that benefit, and therefore those are still the premiums that are being collected in respect of the insurance that is outstanding.

Q.—How long will those expectation benefit policies still be coming in? A.—I think from my observation of the data about the year 1940 before they will all be off the books.

Q.—Now, dealing with that by itself, will that class of insurance from now on until it has all come in, be a source of profit or loss? A.—It will be a source of loss. It won't carry itself.

Q.—Absolute loss, do you say? A.—Absolute loss, yes.

Q.—Then with regard to the term insurance, I see you have also arrived at premiums in respect of that?

MR. HUNTER: No, he has taken the ordinary standard rates? A.—I have taken the rates the Foresters charge for their term insurance and side by side I set out the rates charged by one of the old line companies.

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MR. SHEPLEY: Have you reduced them to the same denomination in respect of eliminating expenses? A.—No sir, the Foresters rates are gross and the insurance companies' rates are gross.

Q.—Then, perhaps, that is only a rough comparison? A.—It is only a rough comparison inasmuch as the insurance companies' rates will be loaded more heavily for expenses.

Q.—What is the experience with regard to mortality in respect to term insurance? A.—So far as I am aware it is always higher than other classes.

Q.—Is there a reason for that? A.—It is known among actuaries as an adverse selection, against the company. That is, men who have a feeling that they are not very sound lives will take these cheap forms of insurance and that feeling is found to be entirely substantiated by results, on that hypothesis.

MR. HUNTER: Will you ask him the basis of those gross rates?

MR. SHEPLEY: Mr. Hunter wants to get the basis, if you can tell us, of each of those gross rates.

MR. HUNTER: The term rates we are speaking of. Shown in table F. The Foresters and the standard rate. I am informed that the standard rate is the H.M. term rate loaded 50 per cent. I am informed that the Foresters' rate is the H.M. loaded 10 per cent? A.—I know nothing personally about the standard rate being loaded 50 per cent. I can say that for two or three ages I have tested the Foresters' rates and I find them to be the H.M. 4 loaded 10 per cent. at the ages which I tried. (Table F. is marked Exhibit 722.

MR. SHEPLEY: Then, Mr. Grant we come to the valuation of the certificates themselves, that is to the computation of reserves. Will you tell us what you did with regard to that? A.—I valued the business of the Order on the 4 bases that I have already mentioned.

Q.—Under the law, as it now stands, there is no requirement as to reserves in connection with fraternal societies or in connection with the Foresters? A.—No.

Q.—Does it follow from that, properly and legitimately as the law now stands, that the Foresters is solvent; taking any law, if there is any, that applies to them? A.—It is legally solvent, just as a grocer may be legally solvent, although he may owe \$20,000 and have only \$5,000.

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MR. HUNTER: That would hardly be a test of legal solvency in the case of the grocer. I think you had better leave your answer at legal solvency.

MR. SHEPLEY: I think Mr. Grant can make the comparison if he chooses and I do not think it is objectionable at all. Then, what Mr. Hunter suggests and I quite fall in with the idea is that we should precede your computation as to reserves with this statement, that if the law required reserves to be maintained by the Foresters, thus and so you would find upon the examinations you have made? A.—Yes.

Q.—Now, if you will proceed to tell me how you went about the computation of the reserves. Describe the plans you have used? A.—A feature of the Foresters' business is that the ages of its members are taken as of last birthday which means that on the average they are half ages when they enter the Society. A man who is nominally aged 20 is really aged 20½ on an average when entering the Society. That has been taken into account in the valuations and also the fact that when you value, the term of the policy, during which policies have been in force, would be half a year for last year's policies, one and a half for the year before and so on. In making the valuation by the O. M. table—select table—I had therefore to take that into account and to modify the table in order to make it conform to those facts. Similarly in the case of the Canada Life table. In the case of the National Fraternal no such modification was required.

Q.—Because it had accommodated itself already to that? A.—Being an aggregate table.

Q.—Then what about the premiums you made use of for your computations, having regard to its being necessary, in order to have one limb of your equation, to ascertain the present value of the future premiums. What did you do with regard to that? A.—I used in the main valuations the premiums as shown by the mortality table which I used as sufficient for the benefit.

Q.—That is those premiums at which you had arrived in the way you have already explained? A.—Yes, which means that the assumption is introduced that the Order's rates will hereafter be equivalent to those premiums.

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Q.—That is you have assumed that the Order was carrying on its business henceforth upon what your investigation has made you think would be an adequate premium? A.—An adequate premium.

Q.—You say in the main you did that. In what respect did you depart from that? A.—Well, I made other valuations upon the assumption that the Foresters would not interfere with their present rates at all, that they would allow them to remain in force during the whole terms of the policies, just as they are, which, of course, means that a very much lower premium on the average was taken into account and means a much greater liability, because if you are getting less income, when you have a fixed liability to meet, you have inevitably a greater difference between the two.

Q.—In other words as “*x*” diminishes “*x — y*” grows? A.—Yes.

Q.—Do you think it was necessary in order to a fair statement of the position, to use both those methods? A.—I think so, for the reason that if the Order does not raise its rates at once, part of that extra liability at least, will accrue.

Q.—Then, in arriving at your reserves, what did you do in respect of lapses and lapse rates? A.—Well, by two of the bases I combined the lapse rates with the mortality rates and gave that all the effect that should be given to it in computing the reserves.

Q.—And with regard to the other tables you omitted that? A.—I omitted the consideration of lapse.

Q.—In your own view as an actuary and having regard to any possible circumstance of difference between this Society, or a friendly society generally, and an ordinary life insurance company, what do you say as to the propriety of making allowance for lapse in arriving at reserve? You have already said it must be applied with caution? A.—To the computation of premiums.

Q.—What do you say with regard to the computation of reserves? A.—If it has been taken into account in the computation of premiums then it evidently must be in the computation of reserves.

Q.—Then as to both what is your opinion as an actuary? A.—I myself would not use it at all, and there is a great deal of objection to using it from all quarters I may say, even

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from fraternal Orders themselves. Here is a report made by the committee on revision of rates of the Catholic Order of Foresters, and these are all members of the Order themselves, you will understand, and this is practically the conclusion to which they come as set forth in those passages marked.

MR. HUNTER: Who prepared that, Mr. Grant? A.—The committee appointed by the Catholic Order of Foresters to bring in a report on the rate.

Q.—But who was the actuary who prepared the table? A.—I don't think it is stated; I have no further knowledge.

MR. SHEPLEY: There is a reference, I see, to Mr. Mantz and a quotation from him. This is what Mr. Mantz says: “The fact that lapses are a distinct loss and detriment to the company is now so well established that all life insurance companies, and most of the modern assessment associations or stipulated premium companies, deduct from the surrender value of a policy that lapses such a sum as will cover the cost of replacing the business.” A.—That is a quotation from this book. I have verified that. (Exhibit 716, book.)

Q.—He also says: “Any company or association or society, which does not collect on a policy or certificate of membership more than the current cost of carrying the risk gains absolutely no financial advantage if the policy or certificate lapses. And if the policy holder or member has not contributed in addition to the actual cost of carrying the risk a sum equal to the cost of procuring him as a member, it loses in two ways, viz., the expense incurred in replacing the business and the increase in death rate on account of selection against it.” With your Honours' permission I would put in this Report. It is now three and a half years old. It is an International Convention held at Detroit, Michigan, in August, 1901, the report being submitted in May, 1903. They seem to have taken a good time to consider the subject there. (Exhibit 723.) A.—I should say in addition to that that, under certain circumstances, the use of withdrawals is legitimate; in pension funds, for example; where there is a certain profit clearly accruing from that source it is properly taken into

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account; in superannuation funds, where membership is compulsory, for example, and where withdrawal from a fund means sacrifice of what you have paid in.

Q.—Then what is the result in your own inquiry and investigation into this particular matter, what is your own ascertainment with regard to the effect of introducing the lapse element? A.—The lapse element may or may not call for higher reserves. If the policies are of short duration—the policies that are being valued are of short duration—and if the lapse rate happens to have a particular incidence, you may have lower reserves; but after the period during which lapse is active, the reserves will always be higher by introducing the lapse element. That follows because you are really valuing a smaller premium. The effect of taking the lapse element into account is to give you a smaller premium, therefore your assets which you may set against your gross liabilities are less and gives you a higher reserve or net liability.

Q.—Then you have summarized in a table the results of the valuations you have made? A.—Yes. (Exhibit 724.)

Q.—That is in a table headed "Reserve Liability." Give us generally the result according to each table. A.—By the O.M. table with lapse the total reserve liability is \$39,892,000, omitting the odd hundreds. By the O.M. table without lapse it is \$36,121,000.

Q.—That is you get lower reserves without the lapse than you do with it? A.—Taking the lapse into account calls for higher reserves by over three millions.

Q.—Then the Canada Life select table, that is also computed with lapse? A.—The reserve upon that basis is \$37,596,000. And by the National Fraternal Congress table it is \$33,404,000.

Q.—I ought, perhaps, to have corrected, when you said \$39,892,000, the O.M. table with lapse, that ought to have excluded \$309,599, that being the old age annuities, the valuation of the old age annuities and there is no lapse element there. A.—I don't think I should exclude it.

Q.—You have said the lapse element does not enter into that particular computation? A.—No, nevertheless it is to be included in the total liability.

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Q.—Yes, I am not saying that, but what you have said as to lapse does not apply to that portion. A.—Does not apply to that, because the insurers are over 70 and there is no lapse at all.

Q.—Then you have examined the Insurance Department Returns for the purpose of getting at the assets of the Foresters? A.—Yes.

Q.—What are those assets, after adjustment? A.—The net assets—assets available for purpose of liability are \$8,817,653, with odd cents.

MR. HUNTER: I want that again put hypothetically, that if the law required us to maintain reserves; because that is the true surplus on the present state of the law.

MR. SHEPLEY: The net assets. Would you accept this; the net assets that you have now on hand or had on the 31st December, out of which to pay policy obligations, amount to eight millions.

MR. HUNTER: That is not its purpose; that is our assets over and above our present liabilities, which is the legal definition of solvency in the case of this society, by the law of Ontario, which prevails at our head office. I think that is a fair statement of it.

MR. SHEPLEY: Then it has gone down and I accept it as a fair statement. I am not going to find fault with it at all. You are quite right that this is hypothetical. Then instead of taking the premium which you have ascertained to be adequate, you have taken the premiums which are actually in use, and what results do you reach? A.—By the National Fraternal Congress table, provided the Order never raises its rates at all, it should have on hand at the present time to meet its total liabilities, \$58,844,000.

Q.—Then the O.M. That is allowing credit for the present assets? A.—Yes. By the O.M. it would be \$62,443,000. I had better say three thousand, taking it to the nearest thousand.

Q.—That would be the total liability, without taking into consideration—at least as against that you would have the eight million of assets now on hand. A.—Yes.

Q.—Then are you able from the examination you have made to give us your view with regard to the comparison of the business before '99 and since '99? A.—Yes, I divided the

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business with regard to the low rates being paid before '99, and as a consequence with regard to the higher rates since '99, and I find that the first section of the business, which is a little more than half the business, on which is now being collected the low rates,—produces a liability of \$47,811,000 upon the assumption that the rates will be left untouched.

Q.—That is in respect of that business, with the old rates? A.—Yes. The second section is the new business since '99, somewhat under half the total business, and the reserve liability under that section, provided present rates remain in force, will be \$11,033,000, the total making up the \$58,844,000 before mentioned.

Q.—Then are you able to compare the present value of the premiums which are actually being received with the present value according to these tables of the premiums which were employed? A.—Yes, by the National Fraternal Congress table the present value of adequate premiums should be \$29,285,000. That would be an asset to be set off against the liability entailed by the policies. The present value, however, of the actual premiums now being collected on the business since '99 is only \$22,543,000, so according to that standard, the National Fraternal Standard, there will be a deficiency unless those rates are raised. That is in respect of the new rates.

Q.—In respect of the old you made a similar comparison? A.—In respect of the old the present value of the premiums they are actually collecting, provided they remain in force, would be \$36,753,000—I beg pardon, on the National Fraternal, value of adequate premiums would be \$36,753,000, whereas the present value of the actual premiums they are collecting, assuming that they will remain the same, would be only \$18,056,000, so that they are only about half sufficient.

MR. SHEPLEY: Mr. Hunter raises now the question he raised before with respect to the table which I do not desire to put in. Of course if the witness had been able to say that any reliance could be placed on it, even as an aggregate table, I would have no objection.

JUDGE MAC TAVISH: Why do you desire to put it in?

MR. HUNTER: The witness has compared certain other tables of mortality with the Rea table, compiled in the same way as an aggregate table

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on the experience from '94 to '98. This is the same class of experience for '01 to '05 and prepared, we presume, in the same way as an aggregate table. The comparison as to the mortality table of Rea's should include a comparison of this table, to make the record complete for any purpose. I may point out that if the data are so incorrect that no reliance can be placed on that as an aggregate table, the same data are used by the witness to get his lapse table and to get all the other information, so the same vice would pertain to all the other tables.

MR. SHEPLEY: Not to all the other tables.

MR. HUNTER: Yes, he gets his information from the same data.

WITNESS: The exposed to risk would be the same, but of course in getting out lapse rates a variation in the exposed to risk has not the same effect as it has in making out mortality rate. You have a little greater latitude. I think any actuary would admit that.

MR. HUNTER: This can be left until you examine Mr. Pipe as to the use that would be made of an aggregate table by us or by anyone else, but we do not want this taken away; it has a significance on the mortality experience.

JUDGE MAC TAVISH: It may have a significance. Has it a use to the Commission or to you?

MR. HUNTER: It has a use to both, I should think.

JUDGE MAC TAVISH: I cannot see the use of it to the Commission.

MR. HUNTER: The evidence is that the commercial companies use an aggregate table to get premium rates. The statement is that this particular aggregate table cannot be used for that purpose because it shows too wide a departure from an average table. That will be for the Commission to say when they see this along with the other tables. I presume that it is for the Commission to say whether the table can be used or not. What is the use of taking it away from us? Let us have access to it.

JUDGE MAC TAVISH: Have you been refused access to this?

MR. HUNTER: No, we have not: we have seen it, but we have no copies of it. We have copies of the other tables.

JUDGE MAC TAVISH: I do not see any good purpose to be served by making it part of the record. It does not

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seem to me that it will be of any use at all to the Commission. However, we will leave it until Mr. Pipe's examination.

MR. HUNTER: In the meantime I suppose the table will be left here?

JUDGE MacTAVISH: I suppose so. Mr. Grant will be here.

MR. SHEPLEY: Mr. Grant will be entirely at our service as long as required, and also all the papers that he has, subject always to the ruling of the Commission as to any particular document.

JUDGE MacTAVISH: Then we will adjourn now until 2.15.

(At one o'clock adjourned to 2.15.)

AFTERNOON SESSION.

MR. SHEPLEY: In order that I may not lose sight of it, I put in the Registrar's abstract of Foresters' Island (Exhibit 725). There are some conveyances which appear to have been in trust, and which involve the grantees making mortgages to the Foresters before the deed of gift from Dr. Oronhyatekha. Our information is that this conveyancing was to relatives of the Doctor's. It seems to have been in trust because the property was reconveyed to him from time to time to deal with. Then the abstract is carried down sufficiently far to show the deed of gift. Yesterday morning I reserved an exhibit's space for a document in connection with Dr. Montague. It turns out apparently now that it is already in as Exhibit 453, or as part of Exhibit 453. So that that will leave an exhibit space loose, if anybody wants it. Then I call Mr. Pipe.

SIDNEY H. PIPE sworn, examined by

MR. SHEPLEY: Q.—You are an actuary by profession? A.—Yes.

Q.—And you are the actuary in charge of the actuarial branch of the Foresters' business? A.—No, I am not. I am the actuary to the Canadian Branch of the London and Lancashire Insurance Company.

Q.—What connection have you with the Foresters? A.—They consulted with me in the preparation of their case for the Insurance Commission.

Q.—Then you have been consulted with regard to the preparation of their case for this Commission? A.—Yes.

Q.—Have they a regular actuary? A.—Yes, they have an actuary at the head office, Mr. Fitzgerald.

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Q.—And in connection with the preparation of the case for the Commission you have been advising them from time to time? A.—Yes.

Q.—Perhaps you were advising the Doctor while he was under examination. A.—In what way do you mean?

Q.—Well in regard to certain actuarial matters which from time to time were touched upon during that examination. A.—Well, I would not endorse his actuarial opinions.

Q.—Not unless you agreed with them? A.—Well, I mean that I would not have it on record that his opinions were mine.

Q.—What you say then is that you were not advising him during his examination. A.—I think I can safely say that.

MR. HUNTER: I think the fair way to put it was that he was advising me, and I was advising the Doctor.

MR. SHEPLEY: I do not care whether it was mediate or immediate; were your views supposed to be in communication to the Doctor while he was being examined? A.—I communicated my views to the Doctor, yes. I do not say that he communicated them to the Commission.

Q.—I was not suggesting that, only I wanted to know what actuarial light the Doctor had while he was being examined. Are you familiar with this exhibit 446 which was put in by the Doctor while under examination? A.—Yes, I think I prepared that. I do not know. I would not say for certain, but I am familiar with it.

Q.—You would not say for certain that you prepared it, but you think you did? A.—Yes.

Q.—That purports to be a comparison of expense ratios for the year 1905 extracted from the Parliamentary Report of the Department, including the expenses of the Sick and Funeral Department of the I. O. F. and of Canadian Life Insurance companies reporting to Dominion Insurance Department, and the expense per policy in the case of all Canadian institutions reporting was \$15.61, while the expense per policy of the Foresters was said to be \$2.10; expense per \$1,000 of insurance in force, of Canadian \$14.30, Foresters \$2.35. Is that in respect of the matter of expense with which it deals a fair per cent.? A.—Well, the percentage made in this way, that certain fees are paid by members when they enter the Order out of their own pockets. It is a certain payment made by them irres-

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pective of the rate of premium. These can be obtained from the Blue Book, and were deducted from the total expenses of the Order and the ratio found from this balance.

Q.—What I asked you was whether you thought it was a fair per cent., if you were trying to get at the ratio of expense? A.—Yes, I think it is. Well, there are other points to be considered; that is the Court dues and things that cannot be brought into the calculation at all, because they are not shown in any Report.

Q.—What I am trying to get at is whether the per cent. is a fair one. You seem to think there are some circumstances you ought to explain and that is what I am trying to get at—the explanation. Then it will probably be seen more plainly whether it was a fair per cent. or not. A.—Well, the ratio premium income there as shown would have been actually deducted from the premium income on account of expenses.

Q.—In the case of Canadian companies, what expenses have been taken into consideration? Everything? A.—Everything, yes.

Q.—In connection with the Foresters have medical examination fees been taken into consideration? A.—No.

Q.—Or admission fees? A.—No.

Q.—Or local rate dues? A.—No.

Q.—Although those have all been available for expenses? A.—Paid directly by the member.

Q.—But all available for expenses? A.—Oh yes, he has to pay them.

Q.—And you have not a revised computation which would give those features? A.—I do not think you could get at them because they are not shown anywhere.

Q.—That is all I want to ask you about that.

MR. HUNTER: Q.—You might add that those matters you are referring to do not go into the Supreme Court and do not reach the Supreme Court account? A.—That is the point I wish to convey.

MR. SHEPLEY: You said it was not practical to get that? A.—Yes.

Q.—It does not go into the Supreme Court accounts, and that is a perfectly proper observation to make. Do you know that document Exhibit 469? A.—Yes sir.

Q.—Have you the computations on which that is based? A.—I believe I have.

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Q.—Have you them here? A.—Yes, I think so.

MR. HUNTER: Q.—What is that? A.—That is the N.F.C. rate.

MR. SHEPLEY: Q.—Yearly premium payable in monthly instalments for life policy according to National Fraternal Congress Table of Mortality, and 4 per cent. interest, and I. O.F. secession rate 1905. Then a comparison is made. Well, it is very close? A.—Present rates?

Q.—Present I.O.F. rates, with the Fraternal Congress and 4 per cent. and the I.O.F. secession. Perhaps I can ask you the question and you can answer it from your computation. In the first place taking the National Fraternal Congress figures, what sort of a mortality table have you used? A.—Aggregate table, the N.F.C. table.

Q.—And you have combined with that the I.O.F. secession? A.—Yes.

Q.—What sort of a table is that? Select or aggregate? A.—It is a select table.

Q.—What do you as an actuary say as to applying figures from a select table of mortality to figures from an aggregate table? A.—I am of opinion that, provided that aggregate table shows the rate of mortality pertaining at each age of insurance, that that can be safely done.

Q.—Do you agree with what Mr. Grant said this morning with regard to the advantages of a select table of mortality over an aggregate table? A.—Oh yes, I agree that if it is possible to use the select table it is preferable, at the same time my opinion is that it merely alters the instance of the rate, that under the select rate one person may pay a little more than under the aggregate, and that is the effect that it has.

Q.—Would you, if you could avoid it, apply a select lapse table to an aggregate mortality table? A.—I would prefer to use the select mortality table, but I would not think it was wrong to use an aggregate.

Q.—You would not think it was wrong? A.—No.

Q.—It is a little out of place, is it not? A.—No. The first time there was any objection raised to it was in this room. You cannot find any objection in the Journal of the Institute of Actuaries.

Q.—You would prefer the other if you had the information? A.—Yes.

MR. HUNTER: Is there any example in the Journal of the Institute of Actuaries and if so let us have it on the record.

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MR. SHEPLEY: Q.—What do you say to that? A.—I say that in the examples in the Journals of the Institute of Actuaries, wherever the combination has been made, it has always been made to the best of my knowledge with an aggregate table of mortality and select table of lapse, and it has never been criticized.

Q.—Is that because select tables of mortality have not been available? A.—Not at all, because it is only of recent years that the question of the allowance of lapse in fraternal societies has attained any prominence. We have had all along a select table deduced from the H. M. experience, and it has never been used.

Q.—You say at all events that use has been made of it and it has never been criticized until you have heard it criticized here? A.—That is all.

Q.—After all said and done, you prefer the other if you had the information? A.—Yes, if I had the information.

Q.—In the National Fraternal Congress premium, what sort of policy was that for? A.—That was for a life policy; that is the sum insured payable at death, and premium payable ceasing at age 70.

Q.—How did you get at the premium? The National Fraternal Congress is on whole life policies is it not? A.—Well, the National Fraternal Congress table is a table of mortality from which you can deduce the value of any benefits you wish.

Q.—What you mean is that you deduce in respect of the Fraternal Congress premium, a premium or premium table or mortality table, a premium which would pay for the sort of insurance that the Foresters are giving? A.—No. I do not say that.

Q.—What is the comparison then? A.—The comparison, the benefit I got out of it was for insurance payable at death, premiums payable at death, premiums payable at age 70; that is the benefit of the I.O.F. as it at present stands in their constitution. They have thrown off the disability benefit but as a matter of fact that has never been put in practice, and therefore as a matter of actual fact the proper premium should allow for the endowment benefit.

Q.—If a proper premium was allowed for the endowment benefit, this comparison would not be the same? A.—Oh, no.

Q.—Which would have been the higher? A.—The endowment benefit would have been higher.

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MR. HUNTER: The heading of that shows what it is.

MR. SHEPLEY: I quite accept Mr. Pipe's explanation of what he says. "Yearly premium payable in monthly instalments for life policy according to the N.F.C. table of mortality four per cent. and I.O.F. secession rates 1905, premiums to cease at 70 and five per cent. loading added for expenses—"

MR. HUNTER: You are not reading from the exhibit.

MR. SHEPLEY: Do you mean to say that the copy was not the same?

MR. HUNTER: The premiums cease at age 70, and five per cent. loading added for expenses.

MR. SHEPLEY: Yes. I do not dispute what you say for a moment.

Q.—You see the premium given for the N.F.C. is obtained by applying that; premium to cease at 70 and five per cent. added for expenses? A.—Yes.

Q.—If you were to compare with that the benefits that accrued under a Foresters' policy, which you tell me is different, would you be able to do that for the figure, the present I.O.F. rate? A.—Would the present I.O.F. rate be sufficient?

Q.—Yes? A.—No.

Q.—That is quite sufficient for what I am trying to get at. Then that, I think, is all I want to ask you about that particular exhibit. Were you concerned also in the preparation of exhibit 457? A.—No, sir, not to my knowledge.

Q.—That you do not know about? A.—No.

Q.—I would like to ask you whether you know how it was made up; can you tell from your knowledge of the affairs of the society? A.—No, sir, I could not say as to that.

Q.—I will just ask you one general question: this purports to be a comparison of the cost per application in the Australian business of the I.O.F. with the cost per policy secured in the case of a leading Canadian old line company. Can you tell, for instance, whether any expenditure is included in the Australian expenditure beyond the expenditure in Australia itself? A.—I would imagine that expenditure would include the Australian expenses, but it would exclude the cost of doctors' fees and membership fee.

Q.—And you would not understand they included the head office expenses of the Order elsewhere than in Australia? A.—Well, I am not prepared to say that.

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Q.—Then in the case of that leading Canadian company, are the figures significant to you? Can you tell whether those figures include everything in the nature of expense?

MR. HUNTER: That would only be a guess.

MR. SHEPLEY: I do not think it would be a guess. I think he knows the returns of the company pretty well.

Q.—I dare say you know what company it is, as soon as you look at the figures? A.—Well, it is crossed out.

Q.—I did that at the doctor's request? A.—Well, I would presume that they have just simply taken the number of new policies and the total expenses outside of the cost of the claims.

Q.—Would that be an illuminating comparison at all, where you are dealing only with per policy instead of per thousand of insurance? A.—I think you should show both and show the ratio to premium income.

Q.—I suppose if one company issues ten policies insuring \$100,000 and the other issues ten policies insuring only \$5,000, it would not be a fair comparison? A.—Certainly not.

Q.—Then I think that is all I am going to ask you about that. This series of documents is not attached together, but I want to make use of them all as one. I think they belong together; they were so given to us. What do those documents purport to be? A.—The first one represented a curve, from what I remember—this is purely from memory; of course it must have happened some time ago; but after the adjusted rates had been got by Mr. Rea, that I drew this curve, showing the curve in mortality as deduced from this—

Q.—About when would that be?

MR. HUNTER: That would be in 1901. That was not given as part of the case. It was got during discussion with Mr. Dawson during the summer. It has nothing to do with the other papers, and ought not to be part of the same exhibit.

MR. SHEPLEY: I will lay that to one side and take it up separately.

MR. HUNTER: I think it had better be done that way.

MR. SHEPLEY: Q.—And this document; you were acting for them then, as far back as 1901? A.—I started October, 1900, till 1903.

Q.—Consulting actuary? A.—No, I was assistant actuary to Mr. Rea. As far as I remember this—

Q.—Is that your work? A.—I think this is the rough results I got out of

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the I.O.F. experience, roughly adjusted.

Q.—What would be the date of that work? A.—That would be about 1902.

MR. HUNTER: July or August, 1901. Take the date from me.

MR. SHEPLEY: I am perfectly willing to take your dates.

MR. HUNTER: It was got out for the Australian brief.

MR. SHEPLEY: Q.—What does that purport to be? A.—It is a comparison showing the mortality rates as deduced from the I.O.F. experience, the H.M. table, the N.F.C. table and the Australian Mutual Provident. It is just merely a comparison of rates.

Q.—That is merely a comparison of rates? A.—Yes.

Q.—And what is the next? A.—That would be the death rate in the thousand according to the I. O. F. experience, allowing just the deaths to be counted as deaths. I think the other allowed the disability claims to be counted as deaths.

Q.—This was not in 1901? A.—No. (Exhibit 726.)

Q.—What is this next document? A.—That is a table of their experience.

Q.—Would that be made about the same time? A.—I would imagine so.

MR. HUNTER: Yes, they are made at the same time.

MR. SHEPLEY: Q.—That is what is known as the Rea table? A.—Rea made his own adjustments. This is practically a rough rate.

Q.—In what respects does that differ from the Rea table? A.—I think the rates differ at each—

Q.—You think they are all different? A.—I won't say they are all different.

Q.—You think that Mr. Rea made adjustments in addition to those that you had made? A.—Yes, I think so. Here is the Rea rates: age 30 \$4.31 a thousand.

Q.—That is different. They are not all alike. Do you know what was the purpose of preparing that. Was that for Mr. Rea to work upon? A.—I believe at that time there was some investigation going on into the affairs of the Order in Australia, and that it was roughly prepared for just a matter of comparison.

Q.—Then I will lay that aside. I was perhaps a little misled myself as to what it was, and I do not think that is important, but this document probably is. This purports to be table A showing the death rate per thou-

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sand according to I. O. F. and Canada Life Experience, and H.M. and N.F.G. tables; do you recognize that document? A.—It looks to me more like Mr. Rea's table.

Q.—In whose handwriting is it? A.—It is my handwriting.

Q.—Do you say—I will take it, of course, just as you tell me—that this being in your handwriting would be a copy of Mr. Rea's work? A.—I imagine so.

Q.—It is not your original work? A.—No, I do not think so.

Q.—You do not speak with certainty? A.—I do not remember ever preparing such a table.

Q.—You do not remember preparing a table? A.—Not for results of this kind.

Q.—Then, if you will permit me, I would like to have this table A exhibited (Exhibit 727), and one other table here, which is table B, showing the lapse rate per thousand, etc. Do you say that would be Mr. Rea's or yours? A.—Well, I cannot say for certain about that at all. It may be my work and may not.

Q.—Are these two tables, A and B, tables which were in use and governing the operations of the Foresters after they were prepared? A.—Oh, I never used them, at least I never used them to apply to the Foresters at all.

Q.—They never were used except as experimental? A.—Just experimental. (Exhibit 728.)

Q.—Now, during the progress of the examination of Dr. Oronhyatekha we were given some work of Mr. Rea's in connection with the return of the Board of Trade; do you remember about that? A.—Did I have anything to do with that?

Q.—You remember about them going on during the examination? A.—Yes, I remember hearing the evidence in that.

Q.—And you remember Mr. Rea's statement as to the method of valuation adopted? A.—Yes.

Q.—Policies were valued on the one hand as term insurance where the unexpired term was taken into account, together with the full reserve. (Reads.) The doctor thought the term insurance referred to there was a ten or fifteen year term; what do you remember about that? A.—I was under the impression it was a ten year term.

Q.—“Then probably the truest available method.” (Reads.) You

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remember the discussion the doctor and I had with regard to that? A.—Yes.

Q.—What do you say with regard to this statement here? A.—The latter part of it, or the fore part of it?

Q.—The latter part? A.—Mr. Rea was certainly under the impression that such a method of valuation was necessary for the requirements of the Board of Trade, but made no allowance in determining the value of the sums assured for secession. He valued the gross premium less five per cent., and he made no allowance in the annuity for secessions.

Q.—And he did not take into regard the possibility of an extra call? A.—No. These things do not represent the state of facts, but I think the Board of Trade would have allowed him to use a method similar to that given by Mr. Grant this morning, where he valued the net premium requisite to cover the benefit.

Q.—“But as the assumptions imported are at distinct variance” (reads down to the words “definable significance”). I want you to comment upon that, if you will? A.—I think it is true in that respect. I do not think they have any meaning at all, because if he wished to value the gross premium less the expenditure—that is five per cent.—he should have made allowance in the value of the assurance part of it for secessions, and also in the value of the annuity.

Q.—Do you remember this report from Mr. Rea upon the subject of his valuation in 1902? What we were looking at there was in 1897, but there is the same clause in both? A.—I do not think I have ever seen it.

Q.—You probably know his signature? A.—Oh, that is his signature.

Q.—That is dated 1st of June, 1904, and it is a report to Dr. Oronhyatekha, J.P., S.C.R. (Reads.) That was rather surprising? A.—It was a surprise to me, because I valued the 1897 business as one year term policies.

MR. HUNTER: He is speaking of a different valuation.

MR. SHEPLEY: Q.—That would not give you very considerable reserves as compared with ten year term policies? A.—The ten year term would not make much difference, because the reserve is exceedingly small.

Q.—But for one year only that is rather surprising to you? A.—Yes.

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Q.—(Reads down to "Large negative values.") What do you say as an actuary with regard to that? A.—Would you let me read that myself?

Q.—By all means. (Witness reads.)

A.—That is something I cannot follow.

Q.—Is it too abstruse? A.—I do not see the meaning at all.

Q.—"Eliminating the effect of mortality up to age 70"; that sounds heterodox? A.—Yes.

Q.—"It defers any payment up to that age," that is heterodox? A.—Yes.

Q.—"And renders certain the receipt of the premium;" that is heterodox too? A.—I do not see how that can be certain.

Q.—"Thus reducing the values of the policies," etc.? A.—That would clearly follow.

Q.—"And inducing large negative values?" A.—He would mean that the future premiums would be graded according to the sums insured.

Q.—This he has taken care to eliminate? A.—So as not to treat them as assets.

Q.—You never heard of such a valuation as that before? A.—It is certainly extraordinary.

Q.—"You will notice"—(Reads down to "erroneous conclusions")? A.—I do not know what he would think his results would lead to.

Q.—(Reads down to "I have left out these claims altogether") What do you think of that? A.—It is rather a curious statement.

Q.—Sick and funeral department. (Reads down to "Available funds.") What do you think of that? A.—That is easy, too.

MR. HUNTER: When Mr. Rea estimated the value of funeral benefit, he did not take the trouble to read the terms of the benefit. He is valuing it as going to age 80, whereas it should have stopped at 70.

MR. SHEPLEY: I put in this document (exhibit 729).

Q.—Then you wrote a letter to Mr. Dawson on the 30th July, 1907, it is dated, but I think it must have been 1906. A.—1906, yes.

Q.—I will just refer to this clause "Owing to the large bulk of new entrants compared with the existing members, the result of the investigation"—what investigation were you speaking of then? A.—The investigation into the death rates of the I. O. F. Mr. Rea's investigation.

Q.—"The result of the investigation

was of little use as a guide to the future rate of mortality in the society." You agree to that to-day? A.—Oh yes, I do.

Q.—(Reads from "Mr. Rea has been credited from time to time with far reaching statements concerning the financial position of the Order" to "using some of the profits obtained through secessions in expenses.") You do not change that at all to-day do you? A.—No, we would want further proof as regards the death rate.

Q.—They are not of practical utility, those mortality tables deduced by him? A.—The only reason that they would be of practical utility would be if the death rate did not increase.

MR. HUNTER: You might add to that, Mr. Shepley, if you please, a question whether the aggregate table deduced by Mr. Grant could test the former table or not.

MR. SHEPLEY: I was going to ask him that when I came to it, but I will take it at this point because it is convenient enough. What do you say with regard to Mr. Grant's testimony upon that point? A.—In regard to the aggregate table?

Q.—No, in regard to the mortality table which he attempted to evolve from the data furnished him. A.—Well, if the data was accurate it would form a good test as to whether the previous rates were insufficient or not.

Q.—What Mr. Hunter wishes is this, if I understand him; I want to put it as he does as it is his intervention. What he suggests is that the work Mr. Grant did might be useful in checking the accuracy of Mr. Rea's work. A.—Well, I think it would be.

Q.—If the data were accurate? A.—Yes, if the data were accurate.

Q.—And the work accurately done, of course? A.—Yes.

Q.—Would you agree with what Mr. Grant says, that the result in respect of the mortality table, having regard to the data that he had, could not have been relied upon? A.—Well, until I see the result I could not say whether it could be relied on or not. If it showed practically no increase in the death rates from Mr. Rea's experience then it would appear to indicate that the death rate of the Foresters is fairly constant, that it has been fairly constant over the past ten years and that if this state of affairs is going on and it will continue constant—

Q.—That is if it goes on and if it continues constant? A.—Yes, Mr.

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Grant's table would show whether there has been any material increase or not.

Q.—Do you agree with what Mr. Grant says, that you have a right to expect as a normal thing that in the future the mortality rate will be greater by reason of the getting further away from the period of selection in the case of the bulk of the insurance? A.—I would think that the rates at the older ages—that is the ages beyond which business is secured to this Society—would be liable to increase as the age of the Society increases; but considering the continual inflow of new members, the influx and deflux of membership, I think that the rates of mortality at producing ages would be fairly constant.

Q.—Then the insurance becomes more persistent as it gets further away from the period of selection? A.—Certainly. That is shown in the lapse rate.

Q.—And the further you get away from the period of selection the greater would be the mortality in that class?

A.—For that particular age, yes, but at the same time it is my opinion that it is quite legitimate to use an aggregate table, providing that aggregate table shows the death rate at each age.

Q.—You have a constantly increasing membership we will say, and the membership increases more rapidly than defaults, secessions and deaths; will not as time goes on the proportion which insurance well away from the period of selection bears to the whole, increase and tend to increase? A.—It will tend to slightly increase. I don't think it will increase very heavily. That will depend on the lapse rate to a very great extent. And also upon the accession rate. A.—Yes.

Q.—There will be the tendency, however, to increase. A.—At the older ages, I think.

Q.—Then, would you think, as an actuary, that a mortality table which is based upon a continuance for all time of the same causes, the same effective causes, that is the operation of the nearness of the period of selection, would you say that that was a thing to be cautious about, to put it mildly? A.—Cautious?

Q.—About making that the foundation of your premium rate. A.—Well, it would depend to a great extent upon the class of society that I had in view.

Q.—Taking a friendly society, such

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as this? A.—Take this friendly society for example. I think very much should be given to that Society, both in the way of mortality and secession towards the reduction of their rates, because this low experience may continue or it may not, but if at any time in future years it should be found to slightly increase they have the power to call up extra assessments to make good that deficiency.

Q.—I was rather in hopes that you would not introduce that element. Making an extra assessment is destructive of your membership, isn't it?

A.—Well, I don't think if the Society is financially sound—I mean, suppose we started a new Society and we expected a certain mortality, we used a low mortality rate such as the Canada Life aggregate table, and that rate persisted for 15 or 20 years and we introduced a secession rate. Well, if at the end of that 15 or 20 years we found the death rate had gone up slightly so as to necessitate, perhaps, 50 cents a year increase in rates, then it would be time to increase the rates, but in the interval they should certainly keep the reserve, keep the necessary reserve so that in the interval if their experience had been adverse, either by way of lapse or by way of mortality, they would be required and compelled to put up the extra, the necessary reserve; that is if there was an adverse mortality they would not have sufficient funds.

Q.—Now, let us see for a moment; I do not think we are very far apart about that. Having come to the conclusion that a certain rate of mortality is likely to prevail and bearing in mind that you have the right to increase your rates, if you fix a premium rate which you subsequently find you have to increase, you at once bring about a condition of lapsing, don't you? Or you aggravate the condition of lapsing? A.—Well, the aggravated condition of lapsing is usually brought about when the Society is, we might say, on its last legs.

Q.—I am speaking of a time long before that, when the Society increases its rates upon old members, does not that provoke lapse? A.—Oh, it is bound to provoke lapse, but if you add only a 10 cent. assessment occasionally, not every year, but occasionally to make good that reserve it is not such an increase as would increase the lapse rate.

Q.—That is a question of degree? A.—And furthermore if you start charg-

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ing a rate based upon a high mortality rate, a rate that is likely to be higher than that experience and you do not take the full benefit of your secession rate, you are going to charge these men too much, and you are going to have a profit and introduce the distribution of profits system.

Q.—Then you do agree that some method of maintaining an adequate reserve is desirable? A.—It is essential if you are going to maintain the rates at the lowest degree, because that is your only test of your rates.

Q.—Exactly. What is your own view as to the mortality table—I mean some mortality table known—that is nearest the experience of the Foresters? A.—I would think the Canada Life aggregate table or else the N. F.C.

Q.—The Canada Life aggregate or the National Fraternal Congress? A.—Yes.

Q.—Either of these would come pretty close to your mortality experience? A.—Yes, for some years to come, and then if our theory is wrong that this rate is going to remain low during the whole period, then we have the power to perhaps charge 15 or 20 cents or a little extra rate, that is all.

Q.—It is desirable not to do that if it can be avoided? A.—At the same time it can hardly be avoided if you are going to give these people assurance at the least possible cost.

Q.—Exactly, if you are going to be lower than on the very margin of loss? A.—That is so.

Q.—Then you must look for some increase in your rates? A.—Yes.

Q.—I think that is a fair answer.

MR. HUNTER: Before you leave that I would renew the application to have this aggregate table prepared by Mr. Grant made an exhibit, so that it can be used to test whether the mortality of the Society has materially increased as compared with the period covered by the former investigations. I think it will be found quite material after this evidence.

MR. SHEPLEY: Mr. Grant is not the only actuary available to make a mortality table.

MR. HUNTER: But this is made. We spent all summer getting out this material for these computations and let us have some advantage from what has been done. Why should it be excluded merely because it looks favourable to the contention of the Society?

MR. SHEPLEY: Do not mistake me that way, Mr. Hunter. It is not

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because it seems to me that it is favourable to the contention of the Society or position of the Society. It is because I set my face, so far as I can, against introducing a document which is declared by the man who produced it to be misleading and erroneous.

MR. HUNTER: Misleading for one purpose, but not for the purpose for which this witness is now speaking of it.

MR. SHEPLEY: Mr. Grant says so.

MR. HUNTER: I do not think Mr. Grant went that far. He is here; ask Mr. Grant again.

MR. SHEPLEY: There is no reason why Mr. Grant should not be asked again.

MR. HUNTER: It is misleading for one purpose.

MR. SHEPLEY: Then it is a misleading document and it ought not to go in.

JUDGE MacTAVISH: No, it ought not to go in.

MR. SHEPLEY: If it is thought that the Society is not being fairly treated let me ask Mr. Pipe this question. You have, of course, seen the results about which Mr. Hunter is speaking? A.—Yes, I just glanced at them; I have not studied them.

Q.—As an actuary, do you think that the results you saw show that the data could have been accurate? A.—I think it was prepared very hurriedly.

Q.—Won't you go a little further? A.—Well, I cannot form an opinion on that. I cannot impugn the work of the Foresters; I have nothing to do with that.

Q.—Looking at the results as an actuary, would you think or not that the data upon which these results were compiled was accurate or inaccurate? A.—Well, I think if they were anything like the results produced by Mr. Rea, there would be a certain element—but at the same time that they may only be increased in a very small degree.

Q.—I thought perhaps actuaries would agree on a simple question like that. A.—Could I see the results?

Q.—Yes, subject always to my not putting it in without a ruling. I do not want to formally give that position away.

MR. HUNTER: The same criticism would apply to the aggregate

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table of the Canada Life and the select table. There is the same doubt.

(Mr. Grant explains the table to the witness.)

A.—If that is the case, I do not think that is consistent; I do not think that is right.

MR. SHEPLEY: You say you do not think the results reached here are consistent with accuracy in the data. I don't think so, unless Mr. Grant is at fault in his work, which is not likely.

Q.—Then I pass to another matter. I do not know whether you recall the circumstance that the Doctor made a reference to an actuary named George King. A.—I heard it talked about. I do not remember the evidence, I may not have been there.

Q.—I will refer to that for a moment. At page 2251 the question was: "Are you speaking now" (reads to "showing that he was wrong"). You say you have heard that talked about? A.—Yes.

Q.—The Doctor is not quite consistent there, because he says in the first place that he "took our surplus in '96 and then wiped the surplus out." And then afterwards he says, that in order to make his figures like Mr. King's, he had begun with nothing, with no funds in '96, throwing off all the surplus that then existed. Do you know anything about the history of that table the doctor had? A.—Except from hearsay, I have not heard much of it. But it is evident that it did not represent the progress of the I. O. F. fund because he has simply taken a body of lives of a certain age and traced those through each year of insurance and shown how long the premium rate would cover the benefit granted.

Q.—Apparently it had, on the face of it, no reference to the Foresters any more than to any other society with that many membes of that age paying so much annually for a thousand of insurance. A.—I think he quoted the average rate and the membership.

MR. HUNTER: That was the rate at that age of the Foresters.

MR. SHEPLEY: Did you suppose, Mr. Hunter, that that was in the table that this was taken from, in that heading?

MR. HUNTER: Yes, that is in the heading that the table is taken from. That is, we had produced the

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original from which this was taken, and this was copied by your own stenographer.

MR. SHEPLEY: Now, Mr. King, when this was called to his attention by some kind friend, not anybody connected with the Commission, he was so much put out about it that he has sent an affidavit on the subject which I propose to put in before the Commission. It was made on the 2nd October last before a Commissioner in London. (Exhibit 721.) I see that he quotes from a newspaper what purports to be the language of Doctor Oronhyatekha. He speaks of a cutting from a newspaper that had been sent to him. (Reads from "in order to bring to the notice of the Commissioners" to "annexed hereto and marked G. K."). Then he goes on to say that he makes this declaration for submission to the Royal Commission and so on. The "Post and Insurance Monitor" is annexed, but I need not trouble your Honours with that.

MR. HUNTER: Is the table in that article?

MR. SHEPLEY: No, there is no table. He says he never had anything to do with the table.

MR. HUNTER: King may be exonerated then, but this is the way it was used. The author of this pamphlet lied, that was all.

MR. SHEPLEY: Now, Mr. Pipe, this is another document, exhibit 456, which was produced and put in while the Doctor was being examined. I would ask you to say whether you have observed what a very large increase in rates was made in 1898 averaging about 75 per cent., I think? A.—Yes, somewhere about that.

Q.—Now, do you think that the prophecy of Mr. Blackadar would have been so very far out of the way if those rates had not been raised? A.—No, I don't think so, but then you see that is a factor that should have been taken into account if he wanted absolute accuracy.

Q.—The fact that the rates could be raised? A.—Yes. I want to make it clear that he should have put into his statement that these rates are subject to increase. He neglected that fact.

Q.—I do not understand you do disagree generally with what I have

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asked you with regard to the undesirability of increasing rates. A.—I did not follow that, Mr. Shepley.

Q.—You do not disagree with this, that the raising of your rates is a matter to be avoided? A.—Oh, certainly, as far as possible.

Q.—Now, you have heard what Mr. Grant has said with regard to the mortality tables which he has made use of in compiling the tables put before the Commission this morning? A.—Yes.

Q.—I would invite you, as an actuary, interested of course in life insurance and interested in fraternal insurance, as we all are, to give us your best judgment as to what sort of table you think should be used, whether an aggregate or a select table, both being accessible? A.—If both are accessible, then the select table is preferable in point of theory you see.

Q.—I thought, as an actuary, you would say that. Then both are accessible, are they not? A.—There are select tables and aggregate tables.

Q.—There are accessible select tables and aggregate tables? A.—Yes.

Q.—The select table gives the Society the benefit of the recent medical examination? A.—Yes.

Q.—And if also the benefit of the lapse or secession is given, that is the ideal table, is it not? A.—That is so.

Q.—Now what the Doctor said at page 2350 was this; (Reads from "of course you appreciate, do you not, that it is quite possible to compute reserves" to "just a matter of making an accurate computation? A.—Yes.") Would you agree with that? A.—Yes, I think so.

Q.—Then give us your best judgment as to the table you would use? Let us get a little more particular about it, because I assure you, Mr. Pipe, that this Commission is anxious to reserve fraternal insurance in a good position, or to put it in a good position so that it may maintain itself? A.—I know my views differ somewhat from those put forward by Mr. Grant this morning. It seems to me he had in view more the rate that could be charged by a commercial company who started a fraternal policy. That is, I mean, in this case a policy which did not contain the assessment clause, it had no power to call any extra assessment in case of the rates being inadequate. In considering a case of that kind it is

necessary that the rates of mortality should be absolutely adequate throughout; that the rate of interest used shall not fall or should not be above that which could be earned and that if you introduce the secession rate, which of course you should, giving no surrender values, this secession rate must fall well within the limits of that which is likely to be expected; that is the rate must be an absolutely safe rate so that the company could not lose upon the contract.

Q.—Up to the present I have not observed any divergence between your views and Mr. Grant's? A.—No, but now I come to the difference. You will notice that in that rate that I have just talked about, there is a margin of safety all the way through. Now, my opinion of fraternal insurance rates is that that margin of safety is carried in the assessment clause.

Q.—When you say the assessment clause, there are two. Do you mean the one the Doctor called the safety clause, that is the power to make a mortuary assessment? A.—Yes, but in his evidence the real use of that clause was not brought out.

Q.—Then we want to hear that of course? A.—Well, according to the present state of the assessment clause of the Foresters they could call it up at any time the Executive Council thought fit, and that practically means that they could call it at any time.

Q.—I wonder if we could get that clause and give the exact wording of it. It is in the record somewhere.

MR. HUNTER: I can give it to you.

MR. SHEPLEY: If you will be so good. It is so long since I saw it that I will not venture to quote it with accuracy. Mr. Hunter hands me Section 157 (reads this section). You observe that the provision here is confined to cases when the available benefit funds in the mortuary benefit department or insurance department are reduced to less than the total amount of claims passed? A.—That is contrary to my understanding of the clause as it has been explained to me.

Q.—You would, perhaps recognize at once when I point that out to you, that that is not a clause which becomes available? A.—No, it is not useful for my purpose.

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Q.—Then perhaps there is not so much divergence between your views and Mr. Grant's? A.—No, not a bit. It is just a matter of going a little further—I could with the aid of that assessment clause go a little further than Mr. Grant. I would use a mortality table which might fairly well be expected to represent the mortality for some years to come and a rate of interest as high as possible and as much allowance for lapse as we could possibly make.

Q.—Do you feel inclined to give us an opinion as to whether any of the mortality tables which Mr. Grant has made use of would in your view, about meet the case when combined with your lapse rate? A.—Well, Mr. Grant brought in the Canada Life select rate, but I would be more inclined to use the aggregate rate.

Q.—Why, because it is a little lower? A.—No, not that. What I mean is this; the select tables usually bring out a slightly higher rate at the younger ages and quite a considerably lower rate at the older ages. There are certain reasons for that which can be explained. That is not the characteristic of the Canada Life table. In fact the rates under the select tables are higher throughout for some reason or other, which I am not able to find out.

Q.—Mr. Grant reminds me that that is because the Canada Life select tables only run to 50? A.—Well, then, isn't there something anomalous about the provision of those rates?

Q.—Why? A.—That if you are insuring a whole body of lives represented by that experience, that you, knowing their mortality could be represented by the aggregate rate and, therefore, any table used on that basis would produce the necessary rate.

Q.—Yes, if we knew that, that the aggregate table would make sufficient allowance for the placing of the benefit of selection? A.—But the aggregate amount of the mortality in the two tables is the same.

Q.—No doubt, but in the one case it is distributed according to the fact and in the other it is not? A.—Well, I don't see that that produces a higher rate throughout.

Q.—But is that not fair? A.—I know it is distributed, but then the question might arise, is not the rate under the select tables abnormally high compared with the aggregate?

Q.—That is a matter for actuaries. I should have thought two actuaries

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would produce exactly the same result when dealing with a mathematical proposition which is particularly made to adjust the benefit arising from recent selection? A.—Yes, but we will take as an example the H.M. table; those rates under the select table follow the general characteristics. So do those under the O.M. table. The characteristics I mentioned in general with select tables, and this is an exception.

Q.—Then, I think, you did tell me that you preferred the select mortality table if it were available? A.—Yes, and if it correctly represented the mortality which would pertain to the Society.

Q.—The select method is more in accordance with the facts? A.—Certainly.

Q.—And if you are sure that your select table does truly represent the facts, then it is a better table? A.—It is.

MR. HUNTER: I would like to be added to that that the witness thought that the Canada Life select table was suspiciously high at the younger ages.

MR. SHEPLEY: Do you think so? A.—What I cannot understand is the fact that the rates—if the reason for that was clear to my mind, then there was no objection whatever to using the select table.

Q.—Have you made any independent investigation of that at all? A.—No, it has just cropped up in this investigation.

Q.—Have you been at all working towards the Canada Life select as a possible method of testing it? A.—No, I have not had the proper data to test the accuracy, or at least the desirability of using that table.

Q.—Are the data accessible? A.—It could be obtained from the Foresters, of course, with a great amount of trouble. When I was in the Foresters I started a department, a set of books which would have traced this mortality through each year of existence so we could have made comparisons year by year with these tables, to form an adequate basis.

Q.—Then I will pass from that; I am not going to take up more time with trifling differences; we are together upon the principle? A.—Yes, that is so.

MR. HUNTER: Before you leave that, Mr. Shepley, I think we should put on record the aggregate tables and lapse tables, the premium deduced

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by this witness, that we furnished you.

MR. SHEPLEY: Yes. What have you deduced, and by the use of what tables?

MR. HUNTER: You have a copy of this document, Mr. Shepley.

MR. SHEPLEY: Yes, but we will get it upon the record? A.—I used the Canada Life aggregate table and the rate of lapse that has been submitted to the Commission.

Q.—When you say the rate of lapse, you mean the Rea? A.—No, my own rate. I think you had a copy of that. Deduced from the new experience combined with Rea's previous experience.

Q.—That we have here. How many years did you work the lapse rate out for? A.—For the first seven years under the new rate.

Q.—That is for 1901-2-3-4-5-6? A.—Yes, and then combined it with the results obtained by Mr. Rea in the prior experience.

Q.—That is 7, 8, 9, 10, 11, 12, 13, and 14. That is not your independent work? A.—No, it is adjusted so as to conform to Rea's results.

Q.—That is, Rea's figures were the basis? A.—For the last part.

Q.—Now that is the lapse rate you made use of? A.—Yes.

Q.—As to seven years of it it is your own work? A.—Yes. It agrees very closely with Mr. Grant's results.

Q.—Yes, quite closely, I think, with Mr. Grant's results, and therefore we will not find much fault with that. Mr. Grant's results, however, do not agree with Mr. Rea's? A.—No, not at the older ages.

Q.—Would you be inclined to think that perhaps Mr. Grant was more likely to be accurate than the figures you have based upon Rea's? A.—Well, there was an object in getting at these rates. The object was to determine what might be a minimum adequate rate and in doing so we would have to deal with the old membership. That is, we would put all the membership on the same rate of premium as the new membership.

Q.—I understand that. I am getting at the question of this lapse rate. You have adopted for the basis of the seven years of your computation, Mr. Rea's computation. A.—The last eight.

Q.—Mr. Grant has worked that out for himself and his figures differ from Mr. Rea's. A.—Yes.

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Q.—Now, I am only asking you whether or not from what you know as an actuary, of the science, whether you are not inclined to think that Mr. Grant's figures are more apt to be correct.

MR. HUNTER: Cannot both be correct? A.—No, I don't think that while in dealing with the old membership he is bound to increase the lapse rate, the old membership so far, as Mr. Grant put it in his report, show their appreciation of the fact that their rates had not been touched by being very persistent.

Q.—Therefore fewer lapses? A.—Yes. If the rates were raised to the same level, if everyone paid the same rate I think it is more likely that the same state of affairs which existed prior to the increase of rates would be likely to exist.

Q.—I put in this lapse table. (Exhibit 732). Then I think you were advising the Foresters in pursuance of the tables you have computed with respect to fixing a premium rate and also maintaining reserves. Would you think it proper to advise them to raise the rate generally or to maintain the old rate for the old members? A.—Oh, they will have to raise the rate all round.

Q.—That would be your view? A.—Yes.

Q.—Whatever the result might be? A.—Yes, whatever the result might be.

Q.—Then you were good enough to tell me what you went on. A.—Well, I used the Canada Life aggregate table, 4 per cent. interest, and the lapse rate as exhibited in that schedule to produce the following results for the I. O. F. benefit. Excluding the Old Age Benefit first of all. At age 20 it was \$9.42 a thousand. Age 30 \$13.08.

Q.—Perhaps you will let me have that as a table. A.—Yes.

Q.—This is the Canada Life aggregate, Pipe lapse; Canada Life aggregate, select, Grant lapse. A.—That is the one.

Q.—I will put that in as indicating a comparison between your work and Mr. Grant's. (Exhibit 733). A.—I wish to make that clear, that that does not include the endowment feature.

Q.—These are not Mr. Grant's figures where they are headed "Canada Life Select Grant lapse." A.—No, it is the ones we deduced from Mr. Grant's results.

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Q.—From Mr. Grant's results you deduced those, excluding the old age benefit. A.—Yes.

Q.—That would make some difference. A.—Yes, it would vary at the younger ages, probably 50 or 60 cents a year, right up to the oldest ages from 50 cents to about \$3.50.

Q.—That would make some slight difference? A.—Yes.

Q.—That is, your figures would be a little larger? A.—Yes.

MR. HUNTER: This table, I think, should also go in. It is on the previous page of the same document, as the last exhibit.

MR. SHEPLEY: Yes. I think this will do just as it is. This is a comparison with respect to the modified endowment, that is giving effect to the benefit? A.—To the old age benefit, yes.

Q.—Canada Life select, Grant lapse rate? A.—Yes.

Q.—\$10.96 at age 20. And yours Canada Life rate, Grant lapse rate \$10.11? A.—Yes.

Q.—Why did you take Mr. Grant's lapse rate there, instead of your own? A.—Merely to show the difference between the Canada Life select and Canada Life aggregate.

Q.—Then excluding the old age benefit, you get these figures, \$10.43 and \$9.44? A.—Yes.

Q.—And those will be the figures which will be comparable with the first paper you put in? A.—Yes. (Exhibit 734).

Q.—Then Mr. Hunter asks me to put in the comparison deduced between the Blackadar rates according to a former exhibit and the Grant rates according to Mr. Grant's present computation, and I have no objection to doing that. (Exhibit 735.) With respect to this comparison, Mr. Grant points out to me and no doubt you will agree to it, that the Blackadar rates are not computed by the half year? A.—They are yearly rates instead of monthly rates.

Q.—You will remember that Mr. Grant's computation is half year and year and a half and so on? A.—Yes, that will make a difference.

Q.—Perhaps enough difference to reconcile them? A.—Well, there is another additional factor to be taken into consideration and that is that Mr. Grant's rates are monthly, whereas Mr. Blackadar's are yearly and consequently much lower. The two combined would doubtless make the difference.

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Q.—We do not know what Mr. Blackadar's lapse rate is? A.—He used the Canada Life lapse rate in his computation.

MR. SHEPLEY: Then I think that is all I have to trouble Mr. Pipe with.

MR. HUNTER: Just one thing before he leaves the box, Mr. Shepley. At the beginning of Mr. Grant's evidence you made it clear that Mr. Grant was giving his personal views. Now Mr. Pipe has no mandate to speak for the Society; these are his personal views.

MR. SHEPLEY: Yes, I understand that in expressing the views that you have—which of course I would expect of you on oath—you are expressing your own personal views and not purporting to speak officially for the Foresters or any one else? A.—Oh no, they are the result of my own consideration of the case.

MR. SHEPLEY: I had hoped to finish to-day, but Mr. MacDougald of the Pelican and British Empire, from whom I was quite willing to take a written statement, prefers to appear before the Commission in connection with the passing of the Canadian bonus by his company. That is a matter that I thought ought to be explained and I was willing that it should be explained in a memorandum, from a gentleman of Mr. MacDougald's position. However, he prefers to be here and it has been arranged that he shall be here to-morrow morning. I am also promised to-day the information that I want from the Mutual Reserve and I therefore hope again, as I hoped yesterday, that I shall be able to conclude the public sittings to-morrow. Always subject to emergencies of any kind.

(At 4.30 p.m. on Friday, 23rd November, adjourned to 10.30 a.m. Saturday, 24th November, 1906.)

ONE HUNDRED AND THIRD DAY.

Ottawa, November 24th, 1906.

MORNING SESSION.

MR. SHEPLEY: The first thing I have to do this morning is to put in what has been in my possession for some time, which I did not formally

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put in, the correspondence which was to have been sent to me by Mr. Bicknell's firm in connection with the Great West Land Company, and that I file. (Exhibit 736.) Then Mr. McDougald, of Montreal, is here this morning, and I want to ask some questions of him. He has some suggestions to make, which I am sure we will find of value. I think perhaps Mr. McDougald had better be sworn. I would not think of putting him on oath in reference to the general matters he will speak of, but I want some evidence with respect to his company, and that is why I put him on oath.

ALFRED McDOUGALD, sworn.
Examined by MR. SHEPLEY:

Q.—I want you, please, just in your own way, first to give us an account of your company's strengthening its reserve and passing, or partly passing, a bonus to policy holders by reason of that? A.—The company you refer to is, of course, the British Empire and Mutual Company?

Q.—Yes. A.—Which was taken over by the Pelican Company in the year 1903, the Pelican Company at that time enlarging its name to the Pelican and British Empire Life Company. In respect of the year ending 31st December, 1901, the annual report of the British Empire Mutual Life Insurance Company deals with the question very fully of valuation of bonus. Whether it would perhaps be convenient to read that paragraph, this being the first public intimation in respect of the passing of the bonus in Canada of that particular company on that occasion—shall I read it?

Q.—You were then connected with the British Empire Company, I think? A.—Yes.

Q.—I see this report is signed by Mr. Ryan of London, as the general manager, and by yourself as the manager for Canada? A.—Yes.

Q.—Then, if you will permit me, I will read the paragraph, and perhaps we can comment on it as we go. "The directors are pleased to announce to the members the result of the actuarial investigation as of the 31st December, 1901," (reads down to the words "three per cent. for annuities"). I will stop there and ask you about some references that are made here. The report speaks of the directors again deeming it expedient

to devote a sum to strengthening the reserve. What had been done shortly before? A.—That has more particular reference to the strengthening of the reserves of the business in England, and at periodical investigations it was quite common with British companies to strengthen reserves, as opportunities arrived. It has no specific reference to a particular strengthening of reserve in Canada, or the passing or reduction of previous bonuses.

Q.—Prior to this report, or prior to this investigation which the report deals with, upon what per cent. were your reserves computed. Take both England and Canada? A.—Three and a half in Canada and three per cent. in England.

Q.—And how long have they been upon the three per cent. basis in England approximately? A.—Somewhere from five to ten years.

Q.—Somewhere between five and ten years? A.—Yes.

Q.—But they were three and a half in Canada, and had they always been at three and a half here? A.—I think so. I would not be quite certain about that, but they have been three and a half for very many years.

Q.—And was there a reason underlying the original making of a difference between the reserves so far as England was concerned and the reserve so far as Canada was concerned? A.—Oh yes.

Q.—What was that? A.—The interest basis, interest results, the interest yield being higher in Canada than in England. That is referred to in this report.

Q.—That was the condition of things, and what this speaks of is writing the reserve in respect of the Canadian section of the business up to the three per cent. basis? A.—Yes.

Q.—Then I want to ask you this in passing, what table had you valued upon in respect both of England and Canada before this valuation? A.—On the H.M.

Q.—On the H.M. table? A.—Yes, the O.M. having been constructed later.

Q.—And at this investigation or at this valuation the O.M. table was for the first time employed? A.—Because it was for the first time published.

Q.—We had the history of that yesterday, and indeed we had it before. Then the report proceeds "As a re-

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sult of the valuation upon this stringent basis the directors have allotted reversionary bonuses at the rate of \$12.50 per annum per thousand matured for all home and Indian policies entitled to participate in the general section, and \$13.75 for the policies in the temperance section." (Reads down to the words "counting from the 1st of January, 1902.") Now the two classes of policy referred to there are the home and Indian policies? A.—Yes, the Canadian are referred to later.

Q.—"In regard to the Canadian section the continued fall in the rate of interest" (Reads down to the words "Bonus prospect"). I pause there. Will you tell us please in your own way what you had observed as embodied in this report with respect to the rate of interest in Canada? A.—Our experience of the rate of interest in Canada at that time, and for a short time afterwards, had been that it was decreasing; in fact it had tallied with the report of the Superintendent of Insurance, a reference to the matter by the Superintendent of Insurance in his annual report. He had commented, I think, more than twice on the falling rate of interest. Of course that feature was not peculiar in Canada, but was common to the world over.

Q.—What experience have you personally in Canada at this time in respect of the capacity or opportunity to observe the decrease in the rate of interest? A.—Well, as manager for Canada for the Company nominally from the year ending 31st December, 1896. and practically from six to nine months later, when I arrived in this country—

Q.—That would be about five years? A.—Yes.

Q.—And have you yourself observed a tendency to decrease, or were you relying in this statement upon the observations, and comment of others? A.—Oh no, it was actual experience.

Q.—Let me ask you another question about this paragraph in this report. You were, of course, aware of the statutory requirements in this country with respect to reserves? A.—Oh yes.

Q.—What was your idea with regard to whether or not your company was entitled to take the benefit of that statute in respect of Canadian reserves or reserves on Canadian business? A.—The idea was that we

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must have reserves in Canada at least up to that standard.

Q.—That was your view? A.—But the view has not been taken, so far as I know anywhere, that a company's reserve must be exactly that; rather that they must be at least that.

Q.—Your view of the statute would be that the statute did not limit you to a strengthening upon a proper basis but compels you to strengthen at least to that basis? A.—That is it.

Q.—Then you were aware that the statute gave some time for the change of those who were upon a lower basis than the statutory basis? A.—No, I take it that the legislation prescribes the basis for specific years. At a certain time it must not be less than so much, and at a certain other time it must not be less than so much.

Q.—And you were already, in respect of the Canadian section, upon the ultimate basis that the statute prescribes, three and a half per cent.? A.—Yes. 2

Q.—Your idea was, I take you to mean, that not being prevented by the statute from further strengthening as a matter of business policy it was a good thing to strengthen? A.—In the best interests of the policyholders.

Q.—In the best ultimate interest? A.—I might point out it was a mutual company, too.

Q.—Was it the fact, as stated here, that the premiums in Canada in respect of the Canadian business were lower than the premiums in respect of the British business? A.—Yes.

Q.—Will you give us the comparison, perhaps by percentages would be the best way, or perhaps you are prepared to give it to us a little more closely? A.—I have not it by percentages, but I have all the actual facts and figures here.

Q.—I would like to have the comparison? A.—The work was done in schedule 4, and afterwards bound up in volumes; so there are the facts in regard to each individual policy in Canada.

Q.—Can you tell me about the difference in the premium in respect of specific contracts of insurance—I mean specific classes of contracts? A.—No, I could not.

Q.—For instance take whole life, what per thousand in Great Britain and per thousand here? A.—Oh it might vary. Speaking quite off-hand, and without any book, it might vary

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from shall I say seven and a half to fifteen per cent.

Q.—That is the Canadian rate would be seven and a half to fifteen per cent. lower than the British rate? A.—As near as I can say, subject to this, that the rates in Canada were increased when the Canadian companies increased their rates, that was on the occasion of the new legislation of 1899, the new legislation in Canada, but of course that did not affect these policies.

Q.—What I wanted to get at—perhaps you can send us that information without too much trouble—is something definite with respect to this statement that a lower scale of premiums has been adopted in Canada; that is one thing I would like to have verified, if it is capable of verification without too much labor? A.—I feel quite sure that you may take it that according to the class of insurance and the age at entry, the limits of the variation range from seven and a half to fifteen.

Q.—Would it be possible, without much labor, to give us a comparison, giving us the figures? A.—They are here.

Q.—Let us have an instance if you please? A.—Here is an instance.

Q.—What class is this? A.—Home life premiums throughout, reversionary and cash bonuses; original premium—the comparison of these two columns. Here is a premium on a man aged 40, \$29.50 a thousand old rate, and new rate \$31.87.

Q.—What do you mean by that? A.—I should have said Canadian and English rate at the time the policy was effected, which in this case was in the year 1883. Here is a case in 1882. The Canadian rate was \$33.64, and the man effecting the corresponding policy in England paid \$38.58. Here is another case, at age 38, policy in Canada in 1883, would cost \$27.66 per thousand. If he had effected the same policy in England he would have paid \$29.79.

Q.—These are illustrations of the different premium rates? A.—Yes.

Q.—And that was so with respect to the whole Canadian business was it? A.—Yes.

Q.—There was a difference? A.—Yes.

Q.—A substantial difference in the way you state in connection with Canadian business? A.—Yes.

Q.—Then the report proceeds "The directors have however resolved to offer to the Canadian participating

policy holders the option of increasing their premiums to the level rate now in force in England." (Reads down to the words "Profits of that section.") That is something I want to ask about. In the first place was there any general advantage taken of that option by your Canadian policy holders? A.—Yes, very largely, particularly amongst the larger policies, the most expensive policies, the business men.

Q.—Then they did not put the Canadian policy holder back into the position of sharing in the bonus that was declared on the home and Indian policies? A.—In respect to the past, no. It put him on a level with the English members in respect of the future on and after 1st January, 1902, but incidentally it gave him the benefit, which the English members were also enjoying, of interim bonuses, that is to say bonuses to be paid in respect of each year of duration after the year 1901, should the policy mature in natural course; that is by death or by survival.

Q.—That is there would be an apportionment of the quinquennial period? A.—Yes. That of course was a very great advantage.

Q.—That was not so without this? A.—No.

Q.—In other words without taking advantage of this— A.—No, that was the introduction into Canada of the interim bonus.

Q.—And in respect of those who did not take advantage of the option, matters remained— A.—Just as they were.

Q.—Remained still as they were? A.—Yes.

Q.—There is no breaking of the quinquennial period, even if the policy matures in the interim? A.—In respect of those policies, no.

Q.—Then will you tell me, please, what proportion of your Canadian policy holders took advantage—can you say in amounts of insurance? A.—I should say that about one-third to one-half of the policy holders in the participating class took advantage of the option.

Q.—One-third to one half in volume of insurance? A.—In volume of insurance.

Q.—Then the next question that suggests itself to me upon this report is the question as to how Canadian profits pure and simple are ascertained? How would you allot profits to the Canadian section? A.—It was

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found on valuation, speaking in reference to previous valuation periods, it was found on valuation that the Canadian policies had earned in the matter of bonus about eighty per cent. as compared with the English policy holders, the funds for book-keeping purposes of the two branches being kept just as distinct as if they were two distinct companies.

Q.—That is you took the Canadian funds, or the funds derived from the Canadian policy holders and kept a separate account of the profits earned by those funds?? A.—Yes.

Q.—Charging those funds, I suppose, with their proper proportion of the general expenses? A.—Yes, there was no other equitable way of dealing with the situation, in view of the fact that it was a mutual company. When starting business in Canada the British Empire Mutual simply took over the business of another company. They did not of themselves open up anew in Canada in 1883, but having taken over the business of another company that was doing business in Canada—that was the occasion of their doing business in Canada.

Q.—What was that company? A.—The Lion. Then the manager at the time published I think,—I am not sure about that; however if he did publish, it was directly after he published premium rates equivalent to the English premium rates—it was pointed out to the home board that these rates were so much higher than the market rates that he would not be able to do business in this country and that involved the question of mutual-ity, how could the difficulty be got over equitably as between the two different classes of policy holders, English and Canadian. It was then decided after taking proper advice, that we would charge in Canada, what I might refer to as the market rate for premiums; that is the rates which were actually charged; but that for bookkeeping purposes and valuation purposes we put in the books a section for the two companies, and inasmuch as interest rates were higher from a half to one per cent. in Canada at that time than in England, that involved some justification, equitably in the consideration of the two, and would justify a lower premium being charged, and had rates kept up lower premiums would have been charged.

Q.—I want to be sure I quite understand it. Were you investing in

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Canada, and so getting advantage—
A.—Certainly.

Q.—Of the Canadian rates? A.—Yes.

Q.—To the extent of your Canadian funds? A.—Oh yes, we had more than Canadian funds invested in Canada, never less.

Q.—You say that the two funds, the Canadian fund and the other fund, were in proportion of about eighty to one hundred? A.—Not the funds, the bonuses, the profits I was speaking of, the proportion of the funds would be quite different.

Q.—About what would that be? A.—I should think one to six.

Q.—One in Canada to six in England? A.—Yes.

Q.—Six times as much funds in England as in Canada? A.—Yes.

Q.—Then since the option was exercised by those who did exercise it, have you made a difference in the Canadian funds by transferring their proportion, the proportion of those who took advantage of the option into the English class, the English section, or how has that been? A.—No, the funds are kept here and invested in Canada, but when it comes to a valuation, which would be at the end of that year, the result would be largely affected by the fact that a certain number of Canadian policyholders are in fact English policyholders.

Q.—That is, you will make a difference in the Canadian section itself? A.—That is if the profits are shown to be different, they will just get what they earn.

Q.—What you have promised you know is that they will receive in a future division of profits the same bonus as may be declared on home policies. That would indicate that their bonus may be expected to be higher than the bonus of those who remained in the Canadian section? A.—I believe that is the effect of it.

Q.—What do you find among your Canadian policyholders was the result of this passing of the bonus? A.—Well, inasmuch as the option, which was of course a very valuable one, was attached to the expedient of passing the bonus for two years, speaking generally amongst business men, and certainly amongst insurance men who were insured with us, it was favorably received, and they promptly took advantage of the option, and there are many illustrations of the practical advantages which have resulted to policyholders in the meantime whose poli-

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cies have matured in natural course. I could give you several instances of that.

Q.—I wish you would give us one or two instances? A.—Let us take one case, the late Walter Barwick, for instance. He had with us four policies of \$5,000 each. At that time we entered them in the English bonus section. I have not the exact figures, but I will give them approximately. He paid in respect of two of his policies \$15 a year or more; for four years it would be \$60; in respect of the other two, which were paid up policies, he just paid the lump sum down, say \$130 down, for the two policies, with the proper actuarial adjustment; that would bring a couple of hundred dollars for the four years. When he died, four years out of the five had expired, and the result was that we paid to his estate an interim bonus at the rate of one per cent. per annum on the sum assured, which resulted in \$800 being given; the option was still open in 1902 and immediately after it had been announced the late Judge McDougall, for instance, took advantage of it, and paid a mere trifle, perhaps \$5, something like that; the figures are here, it was quite nominal, for each thousand dollars assured under his policy, and received the interim bonus. So that it is manifest it was a great advantage, and where my letter got into hands where those facts could be appreciated the result was that it was generally availed of, and in less than five years there can be no sort of question that the passing of that bonus, the amount which might for the sake of accommodation be called loss for the two years is more than made up, amongst the surviving members, I mean.

Q.—Could you give us an instance of what has happened to those who did not take advantage of the option? A.—I could give you an instance next May as to what will happen to them, but I cannot give you an instance as yet, for the reason that the quinquennium only closes next May. But there is no reason whatever to anticipate that they will get a lower bonus than they have ever previously received; on the contrary it is likely to be greater. They, of course, get the advantage of a higher bonus in this respect, that the mere passing of the bonus, seeing that it was not a passing of the bonus because there were no funds to give away, but it was a

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passing of the bonus for the purpose of increasing the reserve, they therefore get the benefit annually on those increased reserves. There are two methods clearly, two reasons clearly in respect of which a bonus may be passed; it may be passed because there is no money; it may be passed because prudence indicates that the money which on a given valuation basis is reserved should be increased on a stronger basis. I might add that that report of course was sent to every member of the company and in particular to every participating policyholder, together with an official letter signed by myself, dated 17th April, 1902, the object of which was to make the thing as clear as could be done, without using language too technical, and I have pleasure in putting in a copy of my letter.

Q.—Which accompanied the report? A.—Yes.

MR. SHEPLEY: I will put these two documents together and file them as one exhibit (Exhibit 737). I will read Mr. McDougald's letter dated April, 1902. (Reads letter.)

Q.—And this is the form of option you have handed me? A.—Yes.

Q.—Is there anything else you desire to say upon that subject? A.—You will notice that exhibit refers to the payment of one sum down; it applies to paid up policies. In the case of policies subject to annual premiums, the same circular was sent, except a provision was made for the increase from one month to another. The same exhibit answers the purpose.

Q.—The increase was made having regard to the age at entry, was it? A.—Oh yes, the age at entry, and the rates at that particular time.

Q.—It had no retroactive effect upon past premiums at all? I mean in other words, you did not exact a sum to cover advances in past premiums? A.—Oh no. If we take a paid up policy, for instance, it is a mere matter of actuarial calculation to determine how much that policy holder has got to pay, but in making that calculation that policy holder is not charged one cent in respect of the period lapsing from 1883 we will say, when he effected his policy, up to 31st December, 1901, but merely takes account of the extra amount which he should have paid to get bonus benefits on the English footing, as from the 31st December, 1901. As I was coming away I happened to come

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across a copy of returns of the British Empire Mutual Life Insurance Company, made to the British Board of Trade, pursuant to the life Insurance Companies Act of 1870, and in these returns facts in regard to the companies business are mentioned including of course Canadian business.

Q.—This is the return following the 'investigation and valuation? A.—Yes.

MR. LANGMUIR: What year was that? A.—The year ending 31st December, 1901, the same year which the report covers. (Exhibit 738).

MR. SHEPLEY: Q.—It is the return which covers the work of that valuation? A.—Yes. I may just mention that from and after that period 31st December, 1901, the whole of new business in Canada was placed upon the footing of English rates of premium, which by that time had become practically the market rate in Canada, all other companies having elevated their rates, so that as from the 31st December, 1901, the British Empire Mutual did business in Canada precisely on the same footing as in England in respect of premiums and benefits they conferred in their policies.

Q.—The question now is only an existing question in respect of that section of the policy holders whose policies were on foot on the 31st December, 1901, that did not take advantage of the option? A.—And in respect of those two particular years in fact there is a little hardship in respect of those who died—naturally they would not feel it—and in respect of those whose policies matured during those two particular years.

Q.—Then have we now heard all that you wish to say, all that occurs to you to say upon that particular subject? A.—I think so. If you would like your actuary to look through these calculations I would be very pleased to leave the books for the present.

Q.—I think the Commission won't have any hesitation in accepting the statement you have made with regard to it? A.—The object was to deal all through with strict equity as between English and Canadian policy holders, but in the mutual company from the year of commencement in 1883, the Canadian policy holder as compared with the English policy holder, was practically receiving the annual cash bonus, in that he was paying for the same benefits a lower premium than in England.

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Q.—Then you have been attending a meeting of the Managers Association? A.—Yes.

MR. LANGMUIR: You have frequently referred to interim bonuses. How frequent are those? A.—If I except from my remarks dividend policies and refer for the sake of convenience merely to the policies in respect of which bonuses are allotted quinquennially, then if one of those policy holders should die—we will say there was an allotment for the five years ending 31st December last year; when that bonus is announced, at the same time there is an announcement made in respect of policies which may mature in natural course before the next bonus allotment of five years, say 1910, in respect of those policies an entirely different bonus will be given on a certain rate on certain conditions.

Q.—When you say interim, it is on that particular class of policies? A.—I am confining my remarks to that particular class of policy. I might go further and say that with regard to the deferred dividend policies we do actually give an accounting to a policy holder, but whether that accounting to the policy holder be given or not, if the transaction be carried out in a proper form, the company would allot, for valuation of its business, a contingent bonus to that policy, and if the policy should mature within the quinquennial period—that is to say within the valuation period when the twenty years of the policy might expire,—then that policy in the books will get the benefit of the interim bonus.

Q.—By that allotment? The allotment would enable them to get that? A.—Yes. The bonuses are allotted to all policies—I am speaking of our practice—whether they be deferred dividend policies or quinquennial division policies, but in the case of the deferred dividend policies they are contingently allotted, that is to say that the contingency is that the policy must survive the bonus period of twenty years, whatever it may be. The effect is that a policy has practically annual bonuses.

MR. SHEPLEY: Q.—I did not know whether the Commissioner quite understood that that was entirely a bonus in respect of quinquennial policies, or policies which receive profits quinquennially, and not paid in cash at all unless the policy matured? A.—Yes.

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MR. LANGMUIR: Q.—That is what I wanted to find out? A.—There is no occasion then because the interim bonus is always in the same proportion to what is sure to be earned as the interim dividend in a trading concern.

MR. SHEPLEY: Q.—If I live to the end of the quinquennial period I will get the quinquennial dividend, which will cover and embrace and swallow up the interim dividend? A.—Yes.

Q.—So that it is only for the benefit of those who die in the meantime? A.—Or you may have endowment insurance, but if a person lapses his policy he does not get a share of it.

Q.—Have you any assistance to offer us in respect to the requirements as to Government returns? A.—Well the fact is I made some notes on various items thinking possibly I might be called upon for some remarks, and in particular on the subject of estimates, which was brought to my notice because of the passing of the bonus here; the same remark would apply to the other company passing the bonus—is a practical illustration of the inadvisability, shall I say, of any company issuing estimates.

Q.—You do not favor the idea of the companies advertising by means of estimates? A.—I do not. I just embodied the remarks as tersely as possible under various headings, and estimates is one of the headings there.

Q.—These are your own personal views and you are not speaking for any association of insurance people in these views, or how is that? A.—Entirely my own personal views written independently of everybody in the wide world. I do not put them forward as the views held by my own company; on the other hand I must say that I have no reason whatever to believe that they in any sense, or in any direction vary from the views of Mr. Ryan or anybody else connected with the company.

Q.—The first paragraph of your memorial is headed "investments." (Reads paragraph). I want to ask you a question or two with regard to this clause. You can probably tell us more authoritatively than anybody who has yet given evidence to the Commission. What is the position in Great Britain with respect to legislative restrictions upon investments? A.—It is absent.

Q.—What from your standpoint do you think generally of the policy of legislative restriction? A.—I dislike it entirely, and do not agree with it in any sense of the word.

Q.—What safeguards, if any, would you substitute for legislative control? A.—I was going on to say that the circumstances in this country are different from Great Britain, and I am not prepared to put forward the opinion that what would be good there is necessarily good here; in fact it would seem that restriction of some sort is almost a necessity here, but I think in that case the minimum of restriction should be put on and not the maximum, with a view of its going off altogether as the country advances and business gets into more expert hands.

Q.—Then what, in your view, constitutes the difference between the Canadian standpoint and the British standpoint? A.—The country is not fully settled. There is the fact of State control, which has a tendency to detract from the sense of responsibility of those investing the funds; and possibly the personnel of companies in Canada is not up to the standard in many respects obtaining in England, and certainly the circle from which experts may be drawn to guide life insurance investments is not anything like as wide as in England.

Q.—The last suggestion you have made would seem to recommend itself. You say there is more ample opportunity for safe expert guidance in England than there is here? A.—I should think so.

Q.—The circle of experts being wider. Then with regard to your general view, which is against legislative restriction, I asked you, I think, what safeguards you would substitute, if any, for legislative control. A.—I cannot think of any possible substitute in this country under the present conditions. I think there must be restrictions to some extent. Certainly there must if there is State control of the business, but I would have that restriction as limited as possible with a view to its ultimately going off.

Q.—Its ultimate disappearance. Then, where legislative control is absent, as in Britain, what are the practical safeguards? A.—The practical safeguard is the publicity which is given to all their doings. Not that the publicity is as complete, perhaps, as many of them would wish, even there, but it had the effect of weeding out from the business practically everything that was objection-

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able many years ago, in or about the year 1870. And there being an abundance of expert actuarial opinion there if anything suspicious, shall I say, were to arise, the trained experience would bring that matter forward and public opinion would at once catch on. Not merely the insurance press, but the ordinary every day press would take the matter up. You see the result of that sort of thing in the Annual Meetings of the companies. If everything is all right in a company, or rather, if there is no cause of suspicion as to everything being all right, the Annual Meeting may be held and they will get a quorum it is true, but they won't get much more; but if there be any suspicion whatever, they will want a very large hall for their meeting and a few policemen to look after it.

Q.—That you attribute to the greater publicity with respect to the details of the business of the company? A.—Yes, plus the fact that there is the expert opinion to call the attention of the public. I have an illustration here in regard to the expense rates of companies, for instance. I might take any company; they are all in alphabetical order here. This is an ordinary insurance publication. I take a company here and I find, amongst other figures, that it provides in its premiums for the expenditure of 19.10 per cent. per annum. The public are told that out of that provision it expends 19.06. I might turn up another company and find that it provides for expenditure in its premiums, we will say, for the sake of illustration, merely 25 per cent. It expends 35 per cent. You have no corresponding information for the public in this country.

Q.—That instance you gave last would immediately attract expert attention and become known to the general public at once? A.—Directly. Expert opinion would take account not merely of that fact, but of other features connected with the business. There might be something off-setting that.

MR. LANGMUIR: Do you think, Mr. McDougald, that the investments authorized by the existing Act in Canada are unreasonably or unduly restricted? A.—I doubt if they are unreasonably or unduly restricted, so far as experience has gone up to the present, but, I think, that there is not sufficient latitude having

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regard to the future, and if you are now going to legislate for 20 years more, you have to bear in mind that the funds of companies are going to increase at a very great rate and the present field is not going to increase at the same rate.

Q.—Will not the wonderful progress of Canada that is going on, largely increase the volume of investments in the very same lines permitted by the Act? A.—I am afraid not in the same lines, because the increase will be rather in the nature of opening up investments which carry the highest possible rates of interest at first; that is to say, investments which more or less are outside of the scope of the life assurance field.

Q.—They cover almost every public utility now. A.—Yes, but what does it amount to, having regard to the volume of business and the increasing volume; I think the sums that will have to be invested will increase at a greater ratio than the opportunities.

Q.—That is a question for consideration.

MR. SHEPLEY: I see that you would bar call loans, whether made directly to brokers or others or indirectly through a bank or otherwise. Will you tell us what you have in view with regard to that? I do not mean what instances you have in view but what the principle is that you think is involved? A.—I never heard of life insurance funds being invested in call loans until I came to this country. In fact I might almost say that I never heard of it until in the course of this inquiry in regard to some companies, I do not call to mind what companies they were.

Q.—You do not consider it a desirable class of investment? A.—I think it is a banker's class of investment. I think it is treading on the functions of a banker. I do not mean to say it is unsafe.

Q.—Then I gather that you would not make more stringent the territorial area of investment, you would not go further in the direction of restricting investments to Canadian enterprises? A.—I would widen the territorial area.

Q.—How wide would you make it? A.—Just as wide as you can.

Q.—As wide as possible? Give power to invest everywhere? A.—Oh no, I would not say that. I don't know enough about "everywhere" to say that.

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Q.—If you leave it entirely in the discretion of the Board they may go everywhere? A.—I cannot conceive of anything on the earth or in the heavens above or anywhere else that the Pelican and British Life Office under its constitution, and many other British offices under their constitution, cannot invest in.

Q.—Then turning to Mr. Ryan's speech, he takes a two-fold view of the functions of an insurance company. He says it is a trading concern and it enters into contracts with its policy-holders. "It is not only a trading concern, however, but it is a capitalist institution, holding the funds of policy holders upon an ultimate trust."

A.—Yes. I may say that I put that forward, not because of the individual who makes the remarks entirely, but because of the fact that those remarks are representative of the best insurance opinion in the country, and I have pleasure in putting in the full copy of the speech and the names of some persons present on that particular occasion and particularly leaders in the insurance and financial world there.

Q.—I am not sure whether Mr. Ryan or someone let me have that when I saw him in London last summer. It may be already in. However, I will file Mr. Ryan's speech now as Exhibit 739. Then, the next topic touched upon in your memorandum, Mr. McDougald, is the gain and loss exhibit. (Reads this paragraph to the words "returns as above suggested in this section"). You told us, when we had the pleasure of hearing you the other day, perhaps a little more in detail, what you have here said about the gain and loss exhibit with regard to the mortality element. Your idea is that without that element the gain and loss exhibit is like the Play of "Hamlet" with Hamlet left out. And you think that yearly is too frequent a period? A.—Yearly is too frequent a period.

Q.—Too frequent a period to give reliable results in respect of mortality? A.—Yes. You have an illustration of that, I think, in one of the Canadian Companies; a young company who, as far as I hear, had an abnormal death rate. That is not necessarily a loss. Time must show whether it is a loss or not. It is not necessarily all loss.

Q.—There may be corresponding gains in the next year? A.—To take an extreme illustration; I may one year insure half a dozen people; they may all go out in a boat and get

drowned. The mortality table does not provide for contingencies of that sort, because they take account of large numbers, and not average but probabilities based upon the results.

Q.—Then the rest of the paragraph is, I think, a matter that we have not discussed with you as yet. That is the information which you would give yearly. "The loading percentage of premiums received to be compared with the cost of conducting the business, also shown with a percentage of the premiums received." That is entirely feasible because every company that is well conducted knows what its loading is? A.—However it is conducted it must know what its loading is. It must know how the premium it charges the public compares with the premium according to the valuation standard in the Act.

Q.—Then the rate of interest, the effective rate of interest yielded by the funds invested and uninvested, the method of determining the rate being uniform. What do you mean by that last phrase? I do not know that I quite understand that? A.—As accounts have been rendered in this country on the basis of cash income—cash expenditure—results are that you get within a given compact period, January to December, some income which belongs to that particular year and some which you have been paid earlier and some which you have been paid later. You do not get that income—

Q.—Segregated by itself? A.—That is right. But, if the accounts are kept in a scientific manner according to double entry bookkeeping principles, the result will be that a revenue account—which is different from a cash account—you may get a cash account with some facility from a revenue account, but if you want to get a revenue account from a cash account you can approximate to it and from a series of years you will get a close approximation, but from any one year you may be very much out. The result is that you will get a varying ratio, as between a revenue and cash account. This tends to a uniform and scientific practice in keeping the books.

Q.—That is to be compared with the interest rate to be assumed in the actuarial rate. That is a manifest necessity. Then the gain and loss in sale of securities, you would set that as a piece of knowledge by itself? A.—I would show that. If I may refer to the interest yield in that connec-

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tion I may say that sometimes a concern may say, "I made certain profits from investments; in determining what my fund has yielded during the year, I will call that interest." Another concern may not. That would be a different practice.

Q.—What would be the sound way?

A.—Well, I think that the two should certainly be separately shown. I would personally prefer to leave it out in determining the yield of interest.

Q.—Then "Lapses and surrenders." (Reads this paragraph. That demonstrates itself, of course. Then the par, book and market or estimated values. (Reads this paragraph.) That also explains itself? A.—That is done practically at present.

Q.—You would add to the present British returns. Taking your company, for instance, you do transmit to the Dominion Inspector copies of your Board of Trade returns. You would add to that, however, a separate return, founded upon the principles that this paragraph lays down in respect of the Canadian business? A.—Yes, that is done now.

Q.—Then the next paragraph is, "Income, Expenditure, Assets and Liabilities." (Reads this paragraph to the word "unscientific.") That is for the reason you were discussing a moment ago? A.—Yes.

Q.—(Reads from the words "it leads to a loose method" to end of paragraph.) I think that paragraph explains itself pretty well.

MR. LANGMUIR: You are in favor of uniformity of bookkeeping for all insurance companies? A.—Well, I would rather express it as I have put it here, double entry bookkeeping upon scientific principles.

Q.—I understand. But, in order to proper inspection don't you think uniformity would be an advantage? A.—In bookkeeping, certainly. Moreover, I think one very great virtue is that it renders the possibility of error, whether bona fide or otherwise, very much less.

Q.—It minimises that? A.—Yes.

MR. SHEPLEY: I suppose uniformity in bookkeeping of the companies would be greatly stimulated by requiring so scientific a return that the bookkeeping would naturally lend itself to that? A.—The fact is that the bookkeeping has to lend itself to the form of return required by the Government. I do not consider that the companies are necessarily to blame in any sense of the word for the form

in which they are keeping their books or that some of them have been because the Government practically compels them to adopt this no-system. The only practical objection I have heard to it, and I think the only objection that exists is that the Canadian system hitherto is parallel with the system adopted by American companies in the United States, and some of the Canadian companies, and in the future more of them may or will be doing business in the United States. Then the agents in the field get hold of the account of one company doing business in the States and see their financial returns rendered in a given form; they get hold of the returns for the same period of the same company as rendered to the Canadian Government in a different form, and, of course, the ratios come out differently in the two systems. That is the practical objection to it, but I have answered that by simply saying the one is unscientific and the other scientific. Why should we follow the United States? I would say that to my friend Mr. Dawson quite readily. We ought, as a country, it seems to me, to set a proper example to some other country if they need it.

MR. KENT: We should lead, instead of following? A.—Yes, certainly, if we are leading in the right direction.

MR. SHEPLEY: The next paragraph deals with the valuation basis. (Reads this paragraph to the words "would be comparatively small.") "With the increase in age of the companies and the resulting increase in bonus additions and paid up insurance, the reserves required by the O.M. table may be expected to approximate more closely to those called for by the H.M." I am afraid I will have to ask you to explain that? A.—If I may explain it without resorting to technical language, it comes to this: the risks which a company holds, referred to there, are necessarily on older lives, not young lives; a policy must, for instance, have been in force some fifteen or twenty years before it is paid up; it must have been, of necessity, paid up some time before it gets any appreciative bonus additions which are payable with the sum assured. That is to say we are dealing with old lives. Taking the company as a whole, they are dealing with both old and young, and the average age on the whole com-

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bined is lower than the average age, we will say, amongst the older class. Then, owing to the construction of the O.M. table, which is an aggregate table—and as already sufficiently explained perhaps—it does not call for such relatively high reserves in the case of old lives as in the case of young. Therefore, when the old begin to preponderate the reserves in bulk for the whole company are necessarily lower than they would be if the old were not preponderating.

Q.—That I understand, I think, now. A.—To take an extreme case, if you have a company on whose books all the lives are 20, the O. M. will call for very much larger reserves than the H. M. would. On the other hand if you have a company on whose books all the lives are age 80 the O.M. table may call for reserves about equal to the H. M., at any rate the difference will be very small.

Q.—They tend to approach as the bulk of the lives insured mature or get older? A.—Yes, consequent upon a higher average age. Of course, as I think I say here, it strikes young companies and I do not recommend the O. M. particularly for young companies, at least without some relief such as suggested by the Association.

Q.—There is one expression here that I think was the cause of my not understanding it at once; you not only say “the resulting increase in paid up insurance” but you say “increase in bonus additions.” A.—Well, as a company increases in age the bonus additions must increase.

Q.—I do not yet see, I am afraid, how that approximates the two mortality tables. What have the bonus additions to do with the mortality tables? A.—Because I am referring to bonus additions to the sum assured and payable with the sum assured. Now, those bonus additions do not exist until the life has attained some age and necessarily until the company has attained some age.

Q.—I supposed that bonus additions were provided for in addition to reserves and were not at all part of any reserves proper. A.—They are provided for in the reserves by your present standard, but this is a comparison of two separate tables, the H. M. and O. M.

Q.—Then the paragraph proceeds (Reads from “for the valuation of annuities” to “some other schemes that have been devised.”) You lend your personal support to the method recom-

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mended by the Maangers? A.—I cannot see anything better.

Q.—Do you see anything else as good? A.—No, I don't think I do. I think that for simplicity and usefulness that is as good as you can get. Then the next paragraph deals with Estimates and expands what you said a little time ago. (Reads to the words “seldom bona fide.”) I think that paragraph recommends itself as being aimed at one of the great objections to estimates. Let us face it; is that so as a matter of fact, that the practice of canvassing with estimates has lent itself to misrepresentation? A.—Oh, there is no doubt about that; that is one of the most outstanding features about it.

Q.—(Reads from “3rd.” to “against the best interests of the policyholders.”) I think that paragraph also explains itself. (Reads from “companies operating in Canada” to end of Paragraph 13). When you say “Specimen Surrender Values, you mean actual surrender values that have been paid? A.—Yes, specimens of what has been done. I can put in a Return to the British Government by the Pelican Company for the year ending 31st December, 1905. Each company is free to make its own statement as to what it does and to give specimens.

Q.—The 10th paragraph of the document you now produce, “Board of Trade Return” is, (Reads from “the minimum value” to “the subject of special arrangement.”) That is a statement of what proportion of the premiums paid is returned by way of surrender value. That I will put in. (Exhibit 740). Then the next paragraph of your memorandum is of much importance. It deals with the cost of the business. (Reads from “no more serious question could engage the attention of the Royal Commission” to “available for profit to the policyholders.”) That is a very clear statement of something we have had a great deal of difficulty with. I do not know that we have had it clearly admitted by any insurance manager before us that that excess of expenditure has to come out of the policyholders. (Reads from “the results are inter alia” to “discontinuance rate.”) “Discontinuance rate;” what is that? A.—The discontinuance rate of policies. The lapse and surrender rate.

Q.—(Reads from beginning of paragraph “E” to “loading for extra mortality on the other hand.”) I think that paragraph also explains

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itself. A.—I would like to make just one remark there. You will notice that this rather involves the principle that expenses should be confined to the loading and should be within the loading. That is the expense loading, for there may be loading for other purposes, as for extra mortality. Now, in theory it undoubtedly is true that the expense of a company need not be confined to that particular source. That is to say, no particular source of profit need in theory be ear-marked to a particular purpose. That is theoretically correct, and no one, I think, could take exception to that upon scientific grounds; and I may say that that theory is actually practised in England, but then there they are compelled, and do as the result of the publicity and expert opinion which prevail, take other factors into account as well, so that the result is that whatever purpose the loading be put on for, the expenses are kept within the loading. I do not say the expense loading, for you may have, for instance, the case of a company or companies which lay down their net premium; on top of that, added to that, they place a loading, not for the purpose of expense, but positively for the purpose of a bonus, a compound bonus, too, that is to say, a bonus on the sum assured plus previous bonuses, and their expenses are within the profits from some miscellaneous sources it may be, or even from interest, but the fact remains that their actual expense rate is within the loading rate. Now the result of business conducted in that way where the expense is kept within the loading is that the evils mentioned here, and some more that might be mentioned, are absent there and very prevalent here. On the average the cost of all companies there is about 14½ per cent., which is within the average loading. Here the cost of all the companies reporting to Ottawa, including British companies, who are relatively low in their ratio of expense, is something well over 30 per cent., as appears by working out the figures in the Annual Blue Book Returns. So that I say that although the business cannot possibly, in my opinion—having operated in the two countries—be conducted at as low a rate of expense as in the Old Country, having regard to the higher cost of living, still it can be, and ought to be, conducted within the expense loading; and if I refer

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again to that principle, that theory, that a source of income, profit, need not necessarily be ear-marked for a particular purpose, it still remains that if a loading is put on for a particular purpose, as for expenses, and it is in this country universally and is, generally speaking, in England, it does not seem inconsistent at least that, having been put on for the purpose of expense, it should be ear-marked for that particular purpose and that the expenses as a whole should have some regard, and indeed a very great regard to the loading which is put on.

Q.—It would seem to me, from what study I have been able to give the subject, to be reducible into a shape something like this; you take your net premium, which is to provide for the contract? A.—It is to accumulate at the valuation rate of interest and then meets the mortality risk.

Q.—Yes. Provide for the obligation of the company under the contract? A.—Yes.

Q.—Then as it is foreseen that the company will be at some expense in carrying the risk, the company properly says, we will add to the premium we take from you more than what it is going to cost us to carry the liability, for the purpose of discharging the expense? A.—Yes.

Q.—Then it seems to me it necessarily follows, if that loading is exceeded in expense, that the result is you are dipping into the possibility of the company carrying out its obligation. A.—Well, if you confine your view to the premiums, I would agree. I cannot agree to the principle, that the theory holds taking a view of the total operations of the company.

Q.—I can understand your loading for other purposes and then making that loading disappear, but anything which cuts or eats into the provision made for carrying out the obligation, it seems to me is necessarily vicious in principle. A.—Yes, but then you have other provision for the obligation in addition to that. Your premium must accumulate at least at the rate of interest reserved on your valuation basis, but then you have other sources of profit; you have, for instance, the source of profit arising from the interest; you actually accumulate your premium at a higher rate than you anticipate; there is a source of profit. Now in theory that

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source of profit may be tapped to pay expenses.

Q.—I understand that, but that is profit which the policy holder had a right to look forward to, if he was a participating policy holder, as a part of his contract. A.—I think so. But at the same time it is not necessarily so in theory.

Q.—Is there anything shocking to the average lay mind in saying to a man, you have so much a year paid to you for expenses, you can either give up your job or else keep yourself on the sum allowed you. The company itself fixes the loading? A.—Yes

Q.—Is there anything in principle to justify a company in not loading adequately to discharge the expense? A.—Yes, in theory there is. In practice in this country, no, because the conditions are different in this country from other countries where the theory might be put into practice.

Q.—Would it not be a good thing to get back to the theory? A.—Well, I doubt whether it would be here at the present time. Where that theory is put into practice you have the actual results, that whether the loading be put on for expenses or for anything else, the actual expenses are within the loading that is put on. Those are the results. In other words the operations are planned and carried out by experts who take a wide view, but the conditions are different here and the results are very different.

Q.—Then there is a question I want to ask you, Mr. McDougald, that I do not think has been asked of any of the managers who have been before the Commission. Have you considered or not the putting into force by the State of New York of the law which was recently passed there in respect of American companies, which do business in Canada, will do anything to assist in mitigating the evil here? A.—Well, they have passed several laws; do you refer to any particular one?

Q.—I mean the one with regard to the reduction of expense? A.—I believe that the total expenses there are limited to the total loadings, and that being so that would certainly be of very great assistance to all companies operating in the country in complying with a regulation of that kind.

Q.—If the New York companies are compelled to do that in respect of the whole of their business, what I am asking is whether or not that will not be a material factor in enabling

Canadian companies, if such a law were passed, to comply with it? A.—Most certainly; but I doubt the wisdom of making the law so drastic as has been done in the State of New York, in the sense that there it came into immediate operation. I mean, it is giving a dose of medicine which is too strong for the patient's constitution.

Q.—Then the last paragraph of your memorandum is 15. (Reads to the words "as referee.") You have in view there an expert framing of form for Return? A.—As was done in England in 1870 when the existing Act came into force and which there revolutionized the business without damaging it.

Q.—Has practice in Great Britain since the form of Returns to the Board of Trade was adopted, developed any weaknesses which might now be remedied in making a new provision? A.—I do not quite get the import of the question.

Q.—1870 is a long time ago. During that time there has been a great deal of change in life insurance business itself? A.—There has been a great deal of development, new forms of insurance and such like, but the Act still enables an expert actuary to get a very reliable view indeed of the condition of the company.

Q.—What I thought was that perhaps experience since the Act of 1870 would suggest some improvement even in the form of Return? A.—It would, but the developments have not been such as to call forth any urgency in that matter. If the question were to come up, and whenever it may come up, then the present form of Returns will be enlarged; there will be more publicity, but the same principles will underlie the whole thing. The gentlemen who were instrumental in the framing of those forms are, some of them, alive to-day. It is due to members of the Institute of Actuaries and my suggestion amounts to this, that the experience obtained over there shall be brought to bear upon the Returns required by the Canadian Government, in framing the Returns required by the Canadian Government, but regard must be had to the different conditions in the two countries, and for that reason I would have as large and good an importation as you can arrange for of Canadian actuarial minds brought to bear.

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Q.—This is something which might perhaps be accommodated here, no matter what the British Act provides. What I was going to ask you is, is the British statute itself sufficiently elastic to admit the variations in Returns to meet new conditions? A.—I think to some extent it is, and probably it is sufficiently so because I believe that the Board of Trade have the power to call for further information on any points which may occur to them on reading the Returns sent in. And, as a matter of fact, if there should be any reason for asking serious questions, the practice has been in the past for the Board of Trade to ask the questions and to receive replies and print both in the Returns.

Q.—Then I put in Mr. McDougald's memorandum (Exhibit 741). Now, Mr. McDougald, is there any other subject on which you will give us the benefit of your views? A.—I do not know of any other matter. In my view the two principal matters, the two matters of the greatest importance for the betterment of the business in the country, are the two last referred to in that memorandum.

MR. SHEPLEY: Then I have to thank you, Mr. McDougald, for your frank expression of your views.

MR. McDOUGALD: May I just tender my thanks, your Honours, for this opportunity of giving this evidence.

JUDGE MacTAVISH: We have been very glad to hear you, Mr. McDougald.

MR. KENT: Mr. McDougald, there are a few points that have not been touched upon by the counsel for the Commission, but about which I would like to get your opinion. We have been informed that if we want sound opinions upon life insurance questions generally, that you are the best man to furnish them. A.—I am afraid you have been wrongly informed, sir.

Q.—There may be a difference of opinion on that point, but at any rate as the last witness to appear before the Commission I consider it my duty to endeavour to improve my information, and that is my excuse for troubling you. Some complaints have been made as to the difficulties arising over the payment of death claims. Would you be in favour of compulsory arbitration of any disputes as to the payment of death claims? A.—I cannot say that I would. I have not come across a case that would call for such action. I cannot think of any com-

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pany that would arbitrarily, unjustifiably dispute a claim.

Q.—You are at a certain disadvantage there, because I imagine you represent a company that does not dispute a death claim for other than what appear to be valid reasons; your company would not dispute a death claim in order to stave off the payment as long as possible? A.—No.

Q.—But there are companies that have done that. Some even, unfortunately, that seem to have made a practice of it in the past. A.—That is news to me.

Q.—You would not like to sit in judgment on your neighbour? A.—I don't know who he is.

Q.—I don't think it is necessary to mention the companies. Agents who have appeared before the Commission have manifested a desire that the Commission should approve of their being formed into a corporate body. Are you of the opinion that life insurance canvassing agents should be formed into a corporate body? Should any distinction be made between them and any other party who may solicit life insurance? A.—Well, candidly, I have not given the matter serious thought at all. I do not know what benefits are likely to follow from the incorporation of the body of agents. I do not know what their constitutional powers are likely to be or their liabilities or assets either for that matter.

Q.—Then we will go on to the question of State insurance. Do you see any difficulty in the State furnishing life insurance to the extent at least of granting annuities? Of course on the question of life insurance generally there is a wide difference of opinion, but as to granting annuities it seems to me that there would be no difficulty in the State granting those. A.—I see no difficulty at all; none whatever.

Q.—Then the deferred dividend plan seems to be a favourite one with most companies? A.—Yes.

Q.—What is your own opinion about that? A.—If it is properly conducted there is nothing theoretically against it. There are various reasons for continuing it; but it should be properly conducted. The main objections I have heard to it have resulted—shall I say—from the improper method of dealing with what has been called the surplus. There has been no form of accounting in any shape and that I

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think is where the whole difficulty has arisen. The pool which has been accumulating for the period of 20 years has been liable to be dipped into as well as to be added to; and at stated intervals, but not more frequently than 5 years, I think the actuarial state of that pool should be examined and any properly divisible surplus in the pool should be ear-marked, set aside for actual division when the time comes, and it should be no longer treated, by the companies at least, as surplus, whatever it may be legally as a matter of book-keeping; at least it should not be treated as a surplus revocable or liable to be dipped into again. I am not referring to the investment of the funds, but the actual treatment of the fund which has accumulated.

Q.—That has always been my opinion through this investigation, and that is the reason why I put the question. A.—In our own treatment of the fund every five years that examination is made and a certain surplus is ear-marked—I won't say the whole of the profit which has arisen, because it is not in principle necessarily sound that the whole profits should be forthwith divided—but a divisible surplus is determined and set aside, and then a portion of it, the proper equitable portion is allocated in the books to each individual policy; the amount is put there, and whether the policyholder be informed of it or not, it is there to his credit as a contingent bonus addition and vests at the end of the 20 years.

Q.—Now, in respect to insurance generally, I think all the managers that have appeared before the Commission, when asked about non-participating as against participating insurance, have defended the principle of participating insurance. Are you of the same opinion? Do you think that it is fair and proper that the loading on one class of insurance should be different to the other, that the commission paid to the agent on one class should differ from that paid on the other? In a word that non-participating insurance should be sat upon and the other kind encouraged? A.—I think it depends entirely upon the management of the company's business. I do not see any reason why a company should not do both classes of insurance, provided the management is competent and prudent. I think it is perfectly right that the policyholders should pay a higher premium for the par-

ticipating policy than for the non-participating policy; he goes into the contract with his eyes open; he knows that he may buy a certain class of goods at a certain price and he may get another class at another price; he may choose which he likes; having made his choice deliberately he has no right to complain. If the company is prudently managed the result should be that he will have made a good investment of his extra premium. The degree of that betterment may vary with different companies in different circumstances and in different countries, but why a company should be compelled to do only non-participating business I cannot understand. It is a question of management from first to last. That is my view of it.

Q.—I never have been able to understand why an insurance agent should be paid less commission for a non-participating risk than the other? A.—Well, I think there is a good reason why a distinction should be made there, although I must say that it is not generally made in England. The fact is that the mortality on non-profit business is greater than the mortality on with profit business; which is another way of saying that the company cannot get so much profit out of non-participating business as out of the other class, and as it does not reap so much profit from one class of business it should pay less for it.

Q.—That, I suppose, is because the premium rate on non-participating business is considerably less than on the other? A.—No, you mean the profit is less because the rate is less?

Q.—Yes? A.—No, the profit I am referring to is the profit from mortality. The public will unconsciously exercise what is technically termed a selection against a company. For instance if a man is on his death bed he will get as much insurance as he can. Of course, he cannot get any, but if he knows or suspects himself to be not quite as well as he should, he naturally is the more anxious to get insurance cover; he does not viciously select, I do not mean that for a moment, but the actual effects are that the company doing non-profit business and the same company doing with profit business will find a difference in the mortality rates in those two sections. The mortality rates in the non-participating section will be higher than the mortality rates in the participating section,

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so that the profit resulting from the mortality source, as distinguished from the sources of investment and other sources, the profit from the source of mortality is necessarily restricted to the company as compared with the other class, and inasmuch as the company is not going to make relatively so much profit it should make a distinction, it may fairly make a distinction in the cost at which it purchases that business. It is a distinction in mortality rates. Speaking generally the higher the premium the lower the mortality rate, and the lower the premium the higher the mortality rate.

Q.—It looks on the face of it paradoxical, but I can understand a man whose father and mother have died at an advanced age and who naturally can expect to live longer than another man whose parents have died at an earlier age, preferring one class of insurance for that particular reason. That is a matter that had not occurred to me previously? A.—Let me take a practical illustration. We have a man who in his family history has an experience of, we will say, cancer; an old age disease. He may regard himself as perhaps more liable to go off as a result of cancer than of some other disease which he has not seen in his predecessors. Under those circumstances he says to himself, I am a first class life now; I can pass any doctor. All perfectly true. I want to protect my wife and family to the utmost; I will get as much insurance cover as I can for my money. I have got \$100 a year that I can spare; with that \$100 I can buy a policy for \$2,000 payable to me 20 years hence or payable in the event of my earlier death, I being now, say, 25 years of age. Now, for that same money, \$100 a year, I am going to get as much insurance cover as I can and I find that I can purchase with \$100 a year a whole life non-profit policy of from \$4,000 to \$5,000. Now, he is reasoning in a proper business way and when he comes before the company he may be passed by the doctor as a first class life. He makes every effort to get as much sum assured for his limited premium as he can. He is not going to purchase an endowment assurance policy which has a higher rate of premium, more than double. That is a perfect illustration of the results which we get in the mortality tables, that the higher the rate of premium the lower the rate of mortality, and vice versa, the lower the rate of premium the higher

the rate of mortality. And the higher the rate of mortality the less of course the profits which a company can derive from business of that class.

Q.—Now in respect to new companies; do you think that at the present moment there is any room in Canada for new companies, having in view the time they must take to get properly on their feet? A.—I think there are too many companies per capita of the population already.

Q.—In respect to lapses; it has seemed to me that one of the reasons for the extraordinary lapse rate has been the practice of accepting promissory notes in payment of premiums? A.—No doubt that has its influence, but I doubt if it has an influence to the extent that promissory notes for the payments of premiums should be prohibited. I should very much doubt the wisdom of any legislation prohibiting the payment of premiums by promissory notes. To take practical examples; you have out in the North West—and you will have it in a greater degree yet as the country develops—men who are dependent for their income upon certain seasons, but they want insurance cover, as much as they can get. The fact is, if a promissory note is reasonably good, the business need not necessarily be bad. It is a hobby which can be ridden to death, of course, and no doubt it is a privilege which has been to some extent abused and it has had its influence on the lapse rate, but I am afraid that if prohibition be the cure it will prohibit some people getting insurance who ought to get it. So far as the companies are concerned no doubt it would do them good. They might not think so, all of them.

Q.—Does the agent get paid his commission before the note is paid, whether the note is paid or not? A.—I cannot answer for other companies on that matter, but I should say it would be highly stupid if a company did business that way.

Q.—Your own company does not pay the agent then? A.—Certainly not. I pay the agent when I get the cash. I am speaking there of when the agent is paid by commission. Of course if I am paying an agent a salary that is another matter.

Q.—Something has been said in favor of and against the use of standard forms of policies. I suppose your opinion is that companies should be left untrammelled in the choice of

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their forms? A.—In the interest of the policyholders, decidedly.

Q.—In that case don't you think it would be well that the conditions printed all over the backs of almost all policies should be in a little larger form, so that people can have a better chance to read them, if not to understand them? You are probably aware that the tendency for years has been to print those conditions so as to get as much as possible in the smallest space, possibly to discourage the insured from reading the conditions?

A.—I can understand how the question arises, but I doubt if the inference is quite justified. For this reason, that a company must have some vacant space on its policy somewhere to vary those conditions from time to time as the policyholder may desire, in the form of endorsements, and if the policy were plastered all over with printed matter it would have to issue separate documents, which would be very undesirable. Moreover the conditions which are referred to, I think very frequently include what may be properly termed privileges, not merely conditions. At the same time the conditions and also the privileges I think should be most clearly expressed and should not be open to any ambiguity of language which might mislead in any shape or form. I think, perhaps, that if the Insurance Department—seeing that there must be some legislation—might have some license in the matter of approving the form or the type in which matter is printed.

Q.—Your opinion is that no honorable company should or would lend itself to any scheme whereby the prospective policyholder could be deceived? A.—Certainly, no company should. And I may add that no properly managed company would dream of it. It is certainly against the interests of a company, in the worst possible way, to do any such thing, because of the publicity, the very bad advertisement which it gets in consequence.

Q.—You have spoken at the beginning of the difference between the premium rates in force in Canada and in England. I suppose that there is the same difference in the rates of all British companies doing business in Canada? A.—Not to-day, I should imagine. No, the premium rates of the two countries are to-day practically the same. The Traders have been that way for some years, not because of the lowering rate of interest but

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because of the rates of the two countries approximating.

MR. SHEPLEY: There are two or three little matters. The first is, some time ago the Hon. Mr. Foster spoke to me saying that a notice of a meeting of the Board of the Union Trust Company on the 7th November had been accidentally discovered by one of the directors among his papers and he asked me whether I would have it put in, which, of course, I said I would be glad to do. That notice has been sent to me. It is dated the 4th November, signed by Mr. Foster, as General Manager, and addressed to Matthew Wilson at Chatham, saying that a meeting of the Board will be held on Tuesday, November 7th at 10.30 a. m. (Exhibit 742). I don't think there was any necessity for doing this; I think it was all well proved before. The meeting was originally called for the 10th and the notices were changed to the 7th because Mr. Stevenson was going away. Of course, I put that notice in.

Then there was also sent me by Mr. Foster a letter from a gentleman who had been examined as a witness, and who volunteered to make some statement with regard to a matter which I do not know that I should speak about at all. I wired him, and there has been plenty of time for him to get here, that this would be his opportunity if he desired to offer himself. He is not here so far as I have been informed or am aware. I do not think it proper to put in a mere letter about a controversial matter, without proof.

Then there is another matter which is somewhat similar. I have a letter from a Winnipeg witness, Mr. Pritchard, with regard also to a controversial matter, enclosing a document—not the original but a copy of it—and asking me to have that document put upon the record. The matter being controversial and all parties to the controversy having been examined upon oath, it does not seem to me that it would be proper that I should do as he requests.

Then there is the matter of the Mutual Reserve. Mr. Guthrie spoke to me this morning and said he had a wire saying that a letter had been posted to him which would arrive by the morning train. He promised to come here as soon as the letter arrived so that we could deal with that. That being now the only matter that I have to offer to your Honours in evi-

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dence I would not suggest that we formally adjourn to two o'clock, but I could communicate with you in the meantime, if the letter when it turns up is material. We do not propose at all to drop the matters in question. They must be followed up in some form, but that may be arranged subsequently.

JUDGE MACTAVISH: Then you have nothing further in the way of evidence this morning, Mr. Shepley.

MR. SHEPLEY: No, your Honour, subject to the matter I have mentioned.

JUDGE MACTAVISH: We think it should be understood that although the public sittings are now about to close, the public and the parties more immediately interested should know that at any time within, say the next ten days, we will be ready to receive any information or suggestion material to the inquiry from anyone who desires to submit such information for our consideration. We limit that to the ten days because we are hopeful that the Report will then be so far advanced that suggestions reaching us after that time will not serve any useful purpose. We also take this opportunity to say that should the Commission at any time during the consideration of the evidence with a view to reporting, desire any information not clearly appearing on the notes of evidence or exhibits, we will call upon the companies or their officers or any of them for any such information. The companies should understand that.

Before closing the public sittings we desire to express our appreciation of

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the very great assistance rendered to the Commission in this long and arduous inquiry by the counsel engaged in the investigation. The greater part of this work has fallen to the lot of Mr. Shepley, who has been ably assisted in his work by Mr. Tilley. The result shows that the public interest was safe in their hands. Their conduct of the inquiry throughout has been characterized by fairness and honesty of purpose; they have, with untiring industry, skill and courage, from day to day elicited from the complicated evidence and records of the corporations whose affairs we were directed to investigate, the facts and figures, in such a way that their significance is now apparent.

The counsel retained by the Provinces, Mr. Hellmuth and Mr. Geary, representing the policyholders of Ontario, Mr. LeBeuf representing the policyholders of Quebec, and the Deputy Attorney-General of Manitoba representing the policyholders of that Province, are entitled to share in the thanks we are now tendering.

We would also recognize in this way the able and effective services of Mr. Ross, the very efficient and valuable secretary of the Commission; nor should we omit to mention the names of Mr. Dawson, our Consulting Actuary, and Mr. Grant, the Actuary for the Department; and the accountants whose services were at our disposal during the course of the investigation.

(At 1.15 p.m. Saturday, 24th November, 1906, the Commission adjourned *sine die*.)

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